Part 151
Federal Aid to Airports

This edition replaces the existing loose-leaf Part 151 and its changes.

This FAA publication of the basic Part 151, effective February 11, 1963, incorporates Amendments 151-1 through 151-39 with preambles.

Published
October 1993

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Subpart B—Rules and Procedures For Airport Development Projects

Subpart D—Rules and Procedures for Advance Planning and Engineering Proposals

were published as a notice of proposed rule making in the Federal Register on August 9, 1962 (27 F.R. 7908), and as Draft Release 62–36.

The amendment is a part of the program of the Federal Aviation Agency to recodify its regulatory material into a new series of regulations called the "Federal Aviation Regulations" to replace the present "Civil Air Regulations" and "Regulations of the Administrator". Subchapter I "Airports" was added to Chapter I of Title 14 by an amendment adopted on September 4, 1962, prescribing Part 165 "Wake Island Code" [New] (27 F.R. 8855). Part 159 "National Capital Airports" [New] of Subchapter I was adopted on September 19, 1962 (27 F.R. 9443). In other respects, this amendment conforms to the "Outline and Analysis" of the proposed recodification published in the Federal Register on November 15, 1961 (26 F.R. 10698) and as Draft Release 61–25.

This amendment includes Part 161 as originally proposed in Draft Release 62–36. While Draft Release 62–41, published in the Federal Register on September 13, 1962 (27 F.R. 9107) indicated that it would replace the original Part 161, comments received are still in the process of evaluation and the Agency has decided to promulgate Part 161 as originally proposed. The new Part will, of course, be subject to such amendments as the Agency considers necessary and appropriate after the evaluation of comments received on Draft Release 62–41 has been completed.

During the life of the recodification project, Chapter I of Title 14 may contain more than one Part bearing the same number. To differentiate between the two, the recodified Parts, such as these, will be labeled "[New]". The label will of course be dropped at the completion of the project as all of the regulations will be new.

The definitions, abbreviations, and rules of construction contained in Part 1 [New] of the Federal Aviation Regulations apply to the new Parts.

Of the comments received on the proposal, several suggested changes in style, format, or technical wording. These comments have been carefully considered and, where consistent with the style, format, and terminology of the recodification project, were adopted.

In general, most of the comments received on the notice relating to this amendment, expressed approval with the recodification and restatement of existing regulations. The Airport Operators Council expressed general concern with the revision of the language involved and requested the issue of a further notice of proposed rule making specifying the exact changes in language made in it. Due to the presumption of no change intended in such a recodification program and to the general satisfaction expressed by other commentators, this request has not been complied with. However, as a result of the Council's comments, the language revisions made to the proposed subchapter have been carefully reviewed a second time to assure that none of them have resulted in a change in substance. As was stated in the draft release announcing the recodification project (Draft Release 61–25) and published in the Federal Register on November 25, 1961 (26 F.R. 10698), "The object [of the recodification] is to restate existing regulations, not to make new ones. The purpose . . . is simply to combine and streamline the present Civil Air Regulations and related regulatory material and arrange them in simplified accessible form. The program will not result in any new regulatory requirements. Nor will it change of the regulatory requirements in the present system with the exception that some obviously obsolete rules possibly may be eliminated."

The specific comments of the Airport Operators Council have been carefully considered, and where pertinent have been adopted. As a result, the distribution table for Part 151[New] has been revised to eliminate two erroneous references therein, and to clarify three other references. In addition, § 151.9(e), relating to the property interests that an airport operator or owner should have for the purposes of a runway clear zone, has been revised to adhere closely to the language of the section upon which it was based (§ 550.38(a)(4)). Section 151.35 has been amended to include within it the definition of the term "public airport", formerly contained in § 550.1(r). Other technical corrections have been made in the subchapter, none of which involved more than technical changes in wording to clarify the intended purposes.

section 10 of the International Aviation Facilities Act (49 U.S.C. 1159), and sections 313(a), 314, 601, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355, 1421, and 1427.)

Amendment 151–1

Contract Work Hours; Overtime Wages

Adopted: August 12, 1963 **Effective: August 17, 1963**

(Published in 28 FR 8449, on August 17, 1963)

The purpose of this amendment is to incorporate into part 151 [New] of the Federal Aviation Regulations the overtime wage regulations issued by the Secretary of Labor, 29 CFR Part 5, as amended (27 FR 10119, 28 FR 4251), issued under the Contract Work Hours Standards Act of August 13, 1962, 40 U.S.C. 327, *et seq.*, as they apply to construction contracts for airport projects undertaken with Federal aid granted under the Federal Airport Act, as amended (49 U.S.C. 1101 through 1119).

The Contract Work Hours Standards Act, in pertinent part, applies to any contract for work financed, in whole or in part, by loans or grants from the United States or any agency thereof under any statute of the United States providing wage standards for such work (Sec. 103(a)(3)). As it applies to contracts for Federal-aid Airport projects, it forbids the contractor or subcontractor for any part of such work to require or permit any laborer or mechanic to be employed on the work in excess of eight hours in any calendar day or in excess of forty hours in any workweek unless the worker receives compensation at a rate not less than one and one-half times his basic rate of pay for all excess hours worked (Sec. 102 (a) and (b)(1)). In case of a violation, it makes the contractor and subcontractor not only liable to the affected laborer or mechanic for his unpaid wages but also liable to the United States for liquidated damages at the rate of $10 for each calendar day of violation. In addition, the Act provides for the withholding, from any moneys payable on account of work performed by the contractor or subcontractor, of such sums as have been ''administratively determined'' as owing by the contractor or subcontractor for unpaid wages and liquidated damages (Secs. 102(b)(2), 104(a)). It further provides that the Administrator of the Federal Aviation Agency may, on the contractor's appeal, review the determination of liquidated damages and either affirm it or recommend to the Secretary of Labor that he adjust or forgive the liquidated damages where it is found that the sum determined is incorrect or that the contractor or subcontractor has violated the applicable provision inadvertently and notwithstanding the exercise of due care on his part (Sec. 104(c)). The Act authorizes the Secretary of Labor to provide reasonable limitations and, by regulation, to allow variations, tolerances and exemptions to and from the provisions in the Act (Sec. 105).

The Secretary of Labor implemented the Contract Work Hours Standards Act by amendments to his regulations, 29 CFR Part 5, requiring the Administrator, among other agency heads, to cause these overtime wage provisions to be included in any contract subject to that Act, but exempting small contracts from its coverage. This amendment to Part 151 [New] accordingly directs the inclusion of the required provisions, by sponsors, in construction contracts financed by grants under the Federal Airport Act.

For convenience and clarity each subparagraph of § 151.49(a) which contains provisions required by regulations of the Secretary of Labor is amended by adding, at the end thereof, the citation of the Department of labor rule on which it is based.

The procedural and effective date requirements of section 4 of the Administrative Procedure Act do not apply to this amendment because it is within the exception to section 4 relating to public loans, grants, benefits and contracts.

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*Each Part is printed separately and is available from the Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C.

Adopted: November 8, 1963 **Effective: November 19, 1963**

(Published in 28 FR 12252 on November 19, 1963)

The purpose of this amendment is to revise the provision, in § 151.43(c) of Part 151 [New] of the Federal Aviation Regulations, stating the United States' share of the costs of an approved project for airport development in each State in which the unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceed five percent of its total land.

The several United States' percentage shares of project costs have been redetermined in conjunction with the Department of the Interior in accordance with section 10(b) of the Federal Airport Act, as amended (49 U.S.C. 1109), and this redetermination has resulted in changes for all of the listed States except Alaska, Colorado, and Nevada.

Since this amendment relates to public grants and benefits, notice and public procedure thereon are not required and it may be made effective upon publication.

In consideration of the foregoing, effective November 19, 1963, the table in § 151.43(c) of Part 151 [New] of Title 14, Chapter I, Code of Federal Regulations, is amended to read as follows.

This amendment is issued under the authority of the Federal Airport Act, as amended (49 U.S.C. 1101 through 1119).

Amendment 151–3

In-Runway Lighting

Adopted: November 19, 1963 **Effective: November 26, 1963**

(Published in 28 FR 12612 on November 27, 1963)

The purpose of this amendment is to set forth the conditions under which installation of in-runway lighting will be required as part of an airport project. This action is taken on the basis of rule making Notice No. 63–16, dated April 10, 1963, 28 FR 3733.

The majority of the comments received in response to the notice generally approved the proposed change. The Air Line Pilots Association urged a rearrangement of wording to reflect a change in approach. It urged that in-runway lighting be assumed to be a requirement at all airports where it is necessary to conduct instrument approaches and that special studies be conducted only at those very unusual and relatively few locations in the United States where the weather is such that instrument approaches are almost never contemplated. However, the change conforms the regulation more closely to Section 9(d) of the Federal Airport Act as amended by P.L. 87–255, which contemplates that the Administrator will make a determination whether in-runway lighting is required for the safe and efficient use by aircraft of particular airports.

Republic Aviation Corporation commented that it would be desirable to limit FAA's prerogative to require in-runway lighting in connection with any airport development project, even those projects which are largely or wholly unrelated to the safe and efficient use of the airport. This suggestion was not adopted because the overriding concern of FAA is whether in-runway lighting is necessary for the safety of operations at the airport regardless of the type of airport development proposed for the project.

Language improvements were made in subdivision (*a*) to (*d*) of § 151.13(b)(2)(i) with respect to the requirement for in-runway lighting in cases where FAA has programed the installation of a precision approach system. The revised language expresses clearly that in these instances the requirement applies only where FAA programs the installation with funds already appropriated by the Congress.

Changes in Applicable Rules of the Secretary of Labor

Adopted: July 31, 1964 **Effective: September 7, 1964**

(Published in 29 FR 11335, August 6, 1964)

By rule-making action dated January 3, 1964 the Secretary of Labor amended Parts 1, 3 and 5 of Title 29 of the Code of Federal Regulations. These amendments were published in the Federal Register of January 4, 1964 (29 FR 95, *et seq.*).

Part 151 [New] of the Federal Aviation Regulations (FAR) incorporates provisions of 29 CFR Part 5, and hence must be amended to reflect those changes made by the Secretary of Labor which are pertinent to airport project contracts. Provisions of Part 5, in turn, incorporate provisions of Part 3 of Title 29 which were also amended.

The Secretary of Labor amended the wage determination provisions, 29 CFR 5.3 and 5.4. Section 151.47 (c) and (d) of the FAR which reflects these provisions is being amended accordingly.

The required contract provisions of 29 CFR 5.5 are reflected in § 151.49 of the FAR. Amended 29 CFR 5.5(a) requires that the contract provisions which it contains be inserted in full in the contracts to which § 151.49 applies. The amendments in this section of the Department of Labor Regulations require corresponding amendments in the introductory paragraph of § 151.49(a) and § 151.49(a) (5), (6), (8), (9), (10), (11), (12), (13), (15), and (16).

Section 151.49(b) is amended to reflect the amended exemption provisions, 29 CFR 5.14(a) (3) and (4). Amended § 151.49(c) reflects the changes in the provisions respecting adjustment of liquidated damages, 29 CFR 5.8 (a), (b), (c) and 5.14(c)(3).

Section 151.57(b) is amended to reflect a change in 29 CFR 5.6(a)(1).

For clarity and ease of cross-reference the subparagraph headlines provided in the Department of Labor Regulations are being added to the corresponding provisions of Part 151.

The procedural and effective date requirements of section 4 of the Administrative Procedure Act do not apply to this amendment because it is within the exception to section 4 relating to public loans, grants, benefits and contracts.

Title 14, Chapter I, Code of Federal Regulations, is amended in the following respects.

These amendments are issued under the authority of the Federal Airport Act, 49 U.S.C. 1101 through 1119, and 29 CFR Part 5, as amended.

Amendment 151–5

Equal Employment Opportunity Under Airport Construction Contracts

Adopted: November 13, 1964 **Effective: December 21, 1964**

(Published in 29 FR 15569 on November 20, 1964)

In Notice of Proposed Rule Making of August 11, 1964, 29 FR 11602, the Federal Aviation Agency proposed amendments to Part 151 [New] of the Federal Aviation Regulations to implement the equal employment opportunity regulations prescribed by the President's Committee on Equal Employment Opportunity, 41 CFR Part 60–1, 28 FR 9812, 11305. No adverse comments have been received.

by this amendment.

In consideration of the foregoing, Part 151 of Chapter I of Title 14 of the Code of Federal Regulations is amended, effective December 21, 1964, as follows.

This amendment is made under the authority of the Federal Airport Act, as amended (49 U.S.C. 1101 through 1119), Executive Order 11114 of June 22, 1963 (28 FR 6485) and the Regulations of the President's Committee on Equal Employment Opportunity (41 CFR Part 60–1), and with the prior approval of the Executive Vice Chairman of the President's Committee (41 CFR Part 60–1.5(c)).

Amendment 151–6

Davis-Bacon Act Fringe Benefit Requirements

Adopted: December 11, 1964 **Effective: January 18, 1965**

(Published in 29 FR 18000 on December 18, 1964)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to incorporate the "Fringe Benefit Requirements" of the Davis-Bacon Act to the extent required by the regulations of the Secretary of Labor (29 CFR Part 5) as amended effective September 30, 1964 (29 FR 13462), issued under the Contract Work Hours Standards Act (49 U.S.C. 327–330), and under the Davis-Bacon Act (40 U.S.C. 276a—276a-5). Also, editorial changes in the form of the affected provisions are made that do not involve any substantive change.

Section 15(b) of the Federal Airport Act (49 U.S.C. 1114(b)) requires that "all contracts in excess of $2,000 * * * which involve labor" must contain provisions establishing the minimum wage rates contractors and subcontractors must pay to laborers, and that these minimum wage rates are to be predetermined by the Secretary of Labor. P.L. 88–349 added a provision to section 15(b) stating that the wage determinations of the Secretary of Labor are to be "in accordance with the Davis-Bacon Act, as amended".

On September 30, 1964, the Secretary of Labor issued amendments to his regulations, to implement the amendments to the Davis-Bacon Act requiring that locally prevailing fringe benefits be included in future wage determinations, and revising the contract provisions (required by the Contract Work Hours Standards Act) to reflect the new fringe benefit requirements.

Paragraph (c) of § 151.47, "Procedure for the Secretary of Labor's wage determinations", is amended to require sponsors to furnish available pertinent information as to locally prevailing fringe benefits, as well as wage payment information, with Form DB–11. The reference to Form DB–11(a) is deleted as inapplicable. Paragraph (d) of § 151.47, "Use and effectiveness of the Secretary of Labor's Wage determination", is amended to allow the Administrator, upon a finding that there is a reasonable time to notify bidders, to give effect to the modified wage determinations of the Secretary of Labor received less than 10 days before bid opening. A new paragraph (f) is added to § 151.47 to make the interpretations of the Secretary of Labor of the fringe benefit provisions of the Davis-Bacon Act (29 CFR 5.20–5.32) applicable to § 151.47.

At present, all provisions that sponsors must insert in full in construction contracts are contained in § 151.49(a). To clearly distinguish between the contract provisions the FAA requires and those the regulations of the Secretary of Labor require, the form of § 151.49(a) is substantially revised, and a new Appendix H is added. The FAA-required contract provisions remain in § 151.49(a), and the contract provisions required by the Secretary of Labor are transferred to new Appendix H.

Revised § 151.49(a) contains subparagraphs (1) through (7), representing all of old subparagraphs (1) through (4), (7) and (14) respectively, and new subparagraphs (8) and (9), representing pertinent

its own motion. New paragraph (c) makes the Secretary of Labor's interpretations of the fringe benefit provisions of the Davis-Bacon Act applicable to all provisions of § 151.49.

New Appendix H contains the contract provisions required by the Secretary of Labor. For convenience, the provisions are presented in the form of one article to be inserted in the contracts. Paragraphs are numbered A through H, representing old subparagraphs (5), (6) and (8) through (13), and paragraphs I and J, representing pertinent parts of old subparagraphs (15) and (16) of § 151.49(a). Several of these provisions are directly affected by the amendments to § 5.5 of the Department of Labor regulations (29 CFR 5.5). Paragraph A, "Minimum wages", is amended to add new subparagraphs (3) and (4). Subparagraph (3) provides for the establishment of cash equivalents for required fringe benefits. Subparagraph (4) requires the approval of the Secretary of Labor before the contractor may consider the cost of specified fringe benefits as part of the wages of laborers and mechanics. Paragraph C, "Payrolls and payroll records", is substantially revised. Amended subparagraph (1) requires the contr4actor to keep additional records concerning required fringe benefits. Amended subparagraph (2) requires the contractor to submit with its "Weekly Statement of Compliance" additional information when approval under paragraph A (4) is required, and makes the contractor responsible for the submission of subcontractors' payroll records. Paragraph D, "Apprentices", is amended to require the contractor to submit to the sponsor proof of registration of its apprentice program and its apprentices before any apprentices are used.

Since the amendments to §§ 151.47 and 151.49 are so extensive, these sections are published in full as amended. Also, several minor editorial changes are included, and catchlines are added where appropriate. The practice of citing underlying sections of the regulations of the Secretary of Labor is retained in Appendix H only, and these citations are deleted throughout revised §§ 151.47 and 151.49.

The procedural and effective date requirements of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) do not apply to this amendment because it is within the exception in that section relating to public loans, grants, benefits and contract.

In consideration of the foregoing, effective January 18, 1965, Part 151 of Chapter I of Title 14 of the Code of Federal Regulations, is amended as hereinafter set forth.

This amendment is made under the authority of the Federal Airport Act, as amended (49 U.S.C. 1101–1120) and Part 5 of Title 29 of the Code of Federal Regulations, as amended.

Admendment 151–7

Substitution of Reference to Part 77 for References to TSO N18

Adopted: June 1, 1965 **Effective: June 8, 1965**

(Published in 30 FR 7484, June 8, 1965)

The purpose of this amendment is to delete references to Technical Standard Order N18 in Part 151 and insert in place thereof references to the appropriate sections of Part 77 as revised February 3, 1965 (30 FR 1837). Also, an inadvertent clerical error in § 151.49(a)(9) will be corrected.

Revised Part 77, "Objects Affecting Navigable Airspace", became effective May 1, 1965, and on that date superseded TSO N18. In Subpart C it consolidates obstruction standards for use in several programs of the Federal Aviation Agency. Among these uses is "administering the Federal-aid Airport Program", § 77.3(a)(1). To conform Part 151 to this provision, it is necessary to insert references to Part 77, or to appropriate sections of that Part, in § 151.9; § 151.73(a)(4); § 151.75(a); and § 151.91(a) in place of the designation "Technical Standard Order N18". Also, certain desirable editorial changes are being made with respect to § 151.9(b), (c), (d), and (e) in the interest of clarity and conciseness, with no change in substance.

1001, et seq.), and the Federal Aviation Act of 1958 (49 U.S.C. 1301, et seq.).

Amendment 151–8

Changes Reflecting Amendments to the Federal Airport Act

Adopted: June 16, 1965 **Effective: July 23, 1965**

(Published in 30 FR 8037, June 23, 1965)

The purposes of this amendment to Part 151 of the Federal Aviation Regulations are to reflect the amendments to the Federal Airport Act (49 U.S.C. 1101–1120) made by P.L. 88–280, and to limit the eligibility of field maintenance equipment buildings as items included in an airport development project under the Federal-aid Airport Program, as required by section 13(b) of that Act. This action is taken on the basis of Notice of Proposed Rule Making 64–44 that was published in the Federal Register on October 7, 1964 (29 FR 13129).

The majority of the comments received in response to the Notice approved the proposed amendments implementing P.L. 88–280. As stated in the Notice, P.L. 88–280 provides for grants for advance printing and engineering; adds Guam to the areas eligible for Federal aid; requires proposals and projects to be reasonably consistent with plans of public agencies for the development of the area; requires sponsor assurances as to restricting the use of land adjacent to the airport to purposes compatible with airport operations; authorizes record keeping requirements; and provides for access to sponsor records for audit and examination. The Federal Aviation Agency proposed to implement P.L. 88–280 by adding to Part 151 a new Subpart D, "Rules and Procedures for Advance Planning and Engineering Proposals", and a new § 151.26, "Procedures: application; compatible land use information"; and by amending several existing sections of Part 151. Several editorial changes to affected sections were also proposed.

Several comments dealt with amendments affecting existing sections of Part 151. Proposed § 151.3 was objected to because it limits the eligibility for Federal-aid Airport Program grants to work at an airport included in the National Airport Plan. However, under section 9(a) of the Act, only work at an airport that is listed in the National Airport Plan is eligible for a Federal-aid Airport Program grant.

One comment objected that the proposed provisions of § 151.5(d) relating to stage construction and those of § 151.7(b) relating to consolidation of small projects are inconsistent. These provisions as proposed in the Notice are substantively the same as they were before. Section 151.7(b) requires consolidation of small projects to save administrative expense. Section 151.5(d) provides for the division of projects, not into smaller projects but into successive stages of development over two or more fiscal years because Federal funds appropriated for aid to airports in any year should not be tied up for payments to become due on a project in later years but should, if possible, be used in that year for other projects. Thus, there is no inconsistency.

Amended section 9(d)(1) of the Federal Airport Act states: "All such projects and advance planning and engineering proposals shall be subject to the approval of the Administrator, which approval shall be given only if he is satisfied that the project or advance planning and engineering proposal is reasonably consistent with plans (existing at the time of approval of the project or advance planning and engineering proposal) of public agencies for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this Act . . ." The Agency proposed to implement the statutory requirement by adding new paragraph (4) to § 151.39(a), and by a new § 151.129(b) in new Subpart D. One comment suggested that a better course for the Agency would be to require local agencies to tailor their plans to the airport development program. While voluntary action by local agencies may bring about the consistency contemplated by the Act, section 9(d)(1) does not authorize the Agency

Most advance planning and engineering costs are eligible for inclusion in the resulting airport development project under § 151.41, if there was no advance planning and engineering grant.

New § 151.121 states in full the sponsor's assurance that it will comply with the exclusive rights provision of section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)). This section was not proposed in its present form in Notice 64-44, but, in proposed § 151.119(b)(1) (renumbered as § 151.131(b)(1) herein), the Agency stated that sponsors of advance planning and engineering proposals would be required to give this assurance in Part I of the Advance Planning Agreement, FAA form 3732. Since the assurance is slanted in full here, it can be incorporated by reference into Part I of the Advance Planning Agreement. Thus, there is no substantive change from the Notice.

Section 151.123 is adopted as proposed in the Notice. One comment expressed concern that § 151.123(a) might prevent the inclusion of advance planning and engineering costs in airport development projects under § 151.41. Of course, advance planning costs will not be eligible for inclusion in an airport development project if they were included in an advance planning and engineering proposal grant. However, where the sponsor is not elibile, or has not applied for an advance planning and engineering grant, advance planning costs are eligible for inclusion in an airport development project grant under § 151.41. It may bear re-emphasizing that costs incurred before the advance planning agreement is executed are not eligible for inclusion in the advance planning grant.

Sever comments suggested that certain additional advance planning cost items be listed in § 151.125(b). These cost items were airport location studies to assure compatibility with air traffic control and navigation aid requirements, airport capacity and delay analyses at the planning stage. property line surveys, and aerial surveys. All these specific items are deemed to be included in the general categories of allowable costs stated in § 151.125(b), as adopted. The list is not an exclusive enumeration. However, the Agency has added a new subparagraph (6) to § 151.125(b) to make incidental costs eligible, that would not have been incurred otherwise, and that are necessary to accomplish the proposal. Except for this addition, § 151.125 is adopted as proposed in the Notice

The agency has added a reference in § 151.131(a) to the sponsor's representation that it will comply with new part 15 of the Federal Aviation Regulations. Part 15, "Nondiscrimination in Federally Assisted Programs of the Federal Aviation Agency—Effectuation of Title VI of the Civil Rights Act of 1964", adopted by the Administrator and approved by the President, was effective on January 30, 1965 (29 FR 19238). Section 15.7 requires each sponsor to give an assurance at the time of application for Federal financial assistance that it will comply with Part 15. This assurance is contained in Part II of the Advance Planning Proposal, FAA Form 3731. This reference does not involve any substantive change.

Other editorial changes not involving any substantive amendments are included in the amendments implementing P.L. 88–280. For example, the sections in new Subpart D are renumbered, and an unnecessary citation in § 151.57(b) is deleted.

Also contained in Notice 64–44 was a proposed amendment to § 151.93(a) which would make field maintenance equipment buildings eligible items for inclusion in airport development projects in only 15 specific States listed. Several comments objected to the idea of limiting in any way Federal-aid Airport Program participation in the construction of field maintenance equipment buildings. However, section 13(b) of the Act, as amended, provides: "* * * The following shall not be allowable project costs: * * * (2) The cost of construction of any part of an airport building except such of those buildings intended to house facilities or activities directly related to the safety or persons at the airport". Applied to field maintenance equipment buildings, this Congressional mandate makes them eligible items only to the extent that they house snow removal and abrasive spreading equipment and provide minimum protection for sand and other abrasive material, and only where the climate is such that, unless the equipment and abrasives are housed, immediate availability under extreme weather conditions is not assured. Otherwise, the direct relation to the safety of persons at the airport, which the Act requires, does not exist. Fire and rescue equipment buildings continue to be eligible items in any airport development project, but any buildings are ineligible that do not related directly to the safety of persons at the airport.

field maintenance equipment buildings to be included in an airport development project on any airport located in an area that meets the temperature criterion. The sponsor must show that the area had a mean daily minimum temperature of zero degrees Fahrenheit, or less, for at least 20 days each year for the five years preceding its application. This showing is based on United States Department of Commerce Weather Bureau statistics if they are available, or, if these statistics are not available, upon other evidence satisfactory to the Administrator.

In consideration of the foregoing, effective July 23, 1965, Part 151 of Chapter I of Tile 14 of the Code of Federal Regulations is amended as hereinafter set forth.

This amendment is made under the authority of sections 1–15 and 17–21 of the Federal Airport Act (49 U.S.C. 1101–1114, and 1116–1120), and section 308(a) of the Federal Aviation Aviation Act of 1958 (49 U.S.C 1349)(a)).

Amendment 151–9

Amendment of Labor Protective Provisions

Adopted: November 3, 1965 **Effective: November 11, 1965**

(Published in 30 FR 14197, November 11, 1965)

The purpose of this amendment is to revise paragraph A(4) of Appendix H of Part 151 of the Federal Aviation Regulations to conform it to recently amended § 5.5(a)(1) (iv) of the regulations of the Secretary of Labor (30 FR 13136), effective October 15, 1965.

Apendix H of Part 151 sets forth the contract provision required by the regulations of the Secretary of Labor. Section 151.49(a) requires sponsors to insert this provision in full in each construction contract. Paragraph A(4) of Appendix H pertains to "Fringe Benefit Requirements" and reflects of the Secretary of Labor.

The procedural and effective date requirements of section 4 of the Administrative Procedure Act do not apply to this amendment because it is within the exception in that section relating to public grants, benefits and contracts.

This amendment is made under the authority of the Federal Airport Act, as amended (49 U.S.C. 1101–1120) and Part 5 of Title 29 of the Code of Federal Regulations. It is adopted by the Director, Airports Service, Federal Aviation Agency, under authority delegated in § 151.49(e) of Part 151 of the Federal Aviation Regulations.

In consideration of the foregoing, paragraph A(4) of Appendix H of Part 151 of Chapter 1 of Title 14 of the Code of Federal Regulations is amended, effective November 11, 1965, to read as follows.

Amendment 151–10

United States' Share of Project Costs in Public Land States

Adopted: November 23, 1965 **Effective: November 30, 1965**

(Published in 30 FR 14781, November 30, 1965)

The purpose of this amendment is to revise the table in § 151.43(c) of Part 151 of the Federal Aviation Regulations that sets forth in percentage the United States' share of the costs of an approved

grants, benefits and contracts, and this amendment may be made effective upon publication in the Federal Register.

In consideration of the foregoing, the table in § 151.43(c) of Part 151 of Chapter I of Title 14 of the Code of Federal Regulations is amended, effective November 30, 1965, to read as follows.

This amendment is made under the authority of the Federal Airport Act, as amended (49 U.S.C. 1101–1120).

Amendment 151–11

References to Area Managers

Adopted: April 27, 1966 **Effective: May 19, 1966**

(Published in 31 FR 6686, May 5, 1966)

The purpose of this amendment is to change the point of contact for sponsors of airport development projects or advance planning and engineering proposals from the District Airport Engineer to the Area Manager.

Amendment 2 to the Organization Statement of the Federal Aviation Agency (31 FR 838) established the subdivision of the regions into areas and stated the functions and jurisdiction of the Area Managers and the location of the area offices. As a result of this change of organization, the area office is now the appropriate point of contact for sponsors of airport development projects and advance planning and engineering proposals under the Federal-aid airport program.

Since the term "Area Manager" is defined, where it first occurs, as the Area Manager of the area where the sponsor is located, the term is used without further qualification in all those sections where this meaning is intended.

The procedural and effective date requirements of section 4 of the Administrative Procedure Act do not apply to this amendment because it relates to public grants, benefits and contracts.

In consideration of the foregoing, Part 151 is amended, effective May 19, 1966, as follows.

This amendment is made under the authority of sections 1–15 and 17–21 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1120) and sections 302(f) and 303(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1343, 1344).

Amendment 151–12

Equal Employment Opportunity

Adopted: July 26, 1966 **Effective: July 26, 1966**

(Published in 31 FR 10261, July 29, 1966)

The purpose of this amendment is to reflect the changes in the equal employment opportunity regulations incorporated in this Part brought about by Executive Order 11246 and subsequent action thereunder by the Secretary of Labor.

Section 151.54 reflects the equal employment opportunity requirements applicable to contractors and subcontractors under Federal-aid to Airports grants of the regulations of the President's Committee on

Accordingly, § 151.54 of Part 151 of the Federal Aviation Regulations, 14 CFR 151.54, is amended, effective immediately [July 26, 1966].

This amendment is issued under the authority of the Federal Airport Act (49 U.S.C. 1101–1114. 1116–1119; Executive Order 11246; and the Regulations of the Secretary of Labor (30 FR 13441; 31 FR 6921).

Amendment 151–13

Incorporation of Technical Guidelines

Adopted: August 26, 1966 **Effective: October 2, 1966**

(Published in 31 FR 11605, September 2, 1966)

The purpose of this amendment is to incorporate into Part 151 of the Federal Aviation Regulations certain technical guidelines, now set forth in Advisory Circulars, that govern airport development projects under the Federal-aid to Airports Program in addition to the standards already set forth in the body and appendices of Part 151.

Incorporation of these guidelines is being effected by adding a list containing the pertinent Advisory Circulars, or parts of Circulars, as Appendix I to Part 151. The technical guidelines in the Circulars on that list are being made mandatory standards by new § 151.72. Advisory Circulars not made mandatory by Part 151 will retain their character of recommendations to airports receiving Federal assistance, and all technical standards in Part 151 or in Advisory Circulars will continue to be recommended to airports that do not receive Federal assistance.

Section 151.72 confers authority on the Director, Airports Service, to add Advisory Circulars to the list and to strike obsolete ones. His present authority to issue, amend, and revoke Advisory Circulars remains unimpaired. Section 151.72 provides that copies of the Circulars on the list are available to interested persons and states where the copies can be obtained. It also states how conflicts between incorporated provisions, or between them and other regulations, are resolved.

This amendment also adds a new § 151.99 that confers authority on the Director, Airports Service, and each Regional Director to allow modifications of programming standards under stated conditions.

This rule-making action is taken on the authority of sections 2 through 15 and 17 through 20 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1119). Since it relates to public property, grants and benefits, notice and public procedure thereon are not required.

In consideration of the foregoing, effective October 2, 1966, Part 151 of the Federal Aviation Regulations (14 CFR Part 151) is hereby amended as set forth below.

Amendment 151–14

Exclusive Rights Prohibition

Adopted: August 31, 1966 **Effective: October 8, 1966**

(Published in 31 FR 11747, September 8, 1966)

The purposes of this amendment are to conform § 151.121 with current Agency policy on exclusive rights and to correct the references contained in § 151.41(c)(2).

U.S.C. 1349). To reflect this change of policy, the assurance in § 151.121 is reworded, and the present last sentence is deleted.

The preceding (next to last) sentence of the assurance, as now set forth in § 151.121, sets an absolute deadline for steps to terminate existing exclusive rights. The new policy merely requires termination at the earliest renewal, cancellation or expiration date of the agreement establishing the exclusive right. This sentence is amended to conform it to the new policy.

Section 151.41(c)(2) of Part 151 contains a reference to the Federal Airport Act erroneously reading "section 13(3)" instead of "section 13(a)(3)". This error is being corrected.

The procedural requirements of section 4 of the Administrative Procedure Act do not apply to this amendment because it relates to public grants, benefits and contracts and merely conforms § 151.121 to previously published Agency policy.

In consideration of the foregoing, Part 151 is amended, effective October 8, 1966.

This amendment is made under the authority of sections 1-15 and 17–21 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1120) and sections 308(a) and 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349, 1354).

Amendment 151–15

Incorporation of Additional Technical Guidelines into Part 151

Adopted: October 10, 1966 **Effective: November 17, 1966**

(Published in 31 FR 13423, October 18, 1966)

Appendix I sets forth the list of Advisory Circulars providing technical guidelines that are made mandatory by § 151.72 of the Federal Aviation Regulations (14 CFR 151.72). The purpose of this amendment to add to Appendix I to Part 151 and additional Advisory Circular, AC 150/5335–1, "Airport Taxiways"; to cancel AC 150/5340–4 and replace it with AC 150/5340–4A; and to cancel AC 150/5345–1 and replace it with AC 150/5345–1A.

This rule-making action is taken on the authority of sections 2 through 15, and 17 through 20 of the Federal Airport Act (49 U.S.C. 1104–1114, 1116–1119), and under the delegation of authority to the Director, Airports Service in § 151.72(b) of the Federal Aviation Regulations (14 CFR 151.72(b)). Since this amendment relates to public grants and benefits, notice and public procedure thereon are not required.

In consideration of the foregoing, effective November 17, 1966, Part 151, Appendix I, subsection (a), "Circulars available free of charge", is amended.

Aviation Regulations. The table sets forth, in percentage, the United States' share of the costs of an approved project for airport development in each state where the unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceed Alaska, Arizona, Colorado, and Nevada.

The procedural and effective date requirements of § 553 of Title 5, U.S. Code, do not apply to this amendment because it is within the exception in that section relating to public grants, benefits, and contracts, and this amendment may be made effective upon publication in the Federal Register.

In consideration of the foregoing, the table in § 151.43(c) of Part 151 is amended, effective December 14, 1966.

This amendment is issued under the authority of sections 1–15 and 17–21 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1120).

Amendment 151–17

Review of Miscellaneous Eligibility Criteria and Programming Standards

Adopted: December 20, 1966 **Effective: January 27, 1967**

(Published in 31 FR 16521, December 28, 1966)

These amendments to Part 151 of the Federal Aviation Regulations add, revise and clarify certain eligibility criteria and programming standards for obtaining Federal financial assistance for airport development under the Federal-aid Airport Program. This action is taken on the basis of proposals made in Notice 66–5 that was published in the Federal Register on March 17, 1966 (31 FR 4523).

It appears to the Agency that further study is needed of Proposal 2 of the Eligibility Criteria Proposals (Adequate Land for Airport Development) and Proposal 5 of the Programming Standards Proposals (Airport Entrance Roads). If further amendment is considered necessary as a result of this study, it will be the subject of separate rule making action. Therefore, these two proposed amendments are withdrawn.

All comments received in response to Notice 66–5 have been fully considered. A number of the proposals have been reduced in scope in light of the comments and upon a careful re-examination of their merits and feasibility at this time.

Comments from two sources concern more than one proposal. Thus, one comment, in its concern about several of the proposals, adverted to the problem of ascertaining hypothetical costs that limit Federal participation but are not actually incurred. For instance, a sponsor may choose to install *high* intensity runway edge lighting while Federal participation is limited to 50 percent of *medium* intensity lighting. No bids on medium intensity lighting are invited. This problem is not newly introduced by the present amendments. In the past, the sponsor submitted an estimate of the hypothetical cost in the engineer's report that accompanies the application. The Agency could then adjust the cost figure upon consultation with the sponsor in light of information in its possession or requested of the sponsor, or sometimes also in light of the bids for the work actually to be performed. This procedure never presented any specific problems in the past and the problem is not aggravated by the present amendment.

Another comment expressed fear that some of the proposals would in effect prevent the State Department of Aeronautics from acting as an agent for the airport sponsor in any negotiation with the Federal Government, even though so authorized by a State statute. It has been accepted Agency practice under Part 151 to allow an agent to act for an airport sponsor seeking FAAP assistance if the agent has valid authorization from the sponsor to so act. This practice will apply to the requirements introduced by this amendment.

This portion of the Notice further proposed to extend the compliance requirement to agreements made by the sponsor with the United States at airports owned or controlled by him other than the airport for which a grant is requested. A number of comments opposed this proposal. Basically these comments contended that a sponsor's non-compliance at one airport should not, of itself, preclude FAAP assistance to the sponsor's other airports since it was not in the public interest to refuse Federal aid for the development of one airport because another airport was not complying with all of its agreements. Some of the commentators based their objection on the ground that the proposed change was unnecessary since the legal remedy of an action for specific performance was available to the FAA in the event of a sponsor's non-compliance. Others felt that there was no basis for the proposed change in terms of safety or improvement of the National Airport System.

After careful consideration of these various viewpoints, the Agency finds them to be without merit. The basic purpose of the majority of the sponsor's covenants required in a project application is to promote safe and efficient operation of airports within a planned National Airport System. For this reason § 151.7(a) currently authorizes the Administrator to expend FAAP funds only if he is satisfied that "the sponsorship requirements have been or will be met under existing and proposed agreements with the United States with respect to the airport involved".

Rather than altering this basic policy of § 151.7(a), this amendment merely extends it well within its rational limits. In actuality, non-compliance is chargeable to the sponsor and not to the individual airport where it occurs. For this reason, it is not considered to be in the public interest to make a grant of FAAP funds to any sponsor who is failing to comply with provisions of any agreement with the United States affecting another airport he owns or controls. Likewise although a legal remedy of specific performance exists, it is considered unreasonable for the Federal Government to grant assistance to a sponsor at one airport while at the same time it is forced to initiate legal action to compel the same sponsor to live up to his agreements at another airport.

A number of other comments criticized the proposal for its alleged lack of procedural safeguards for the protection of the sponsor. They asserted a need for: (1) A procedure for the waiving of minor instances of non-compliance with old, non-FAAP Agreements; (2) Giving timely notice of non-compliance; (3) Holding a hearing on the issue of non-compliance; and (4) An appeal procedure for disputed cases of non-compliance.

It should be emphasized that this amendment makes no change to the procedures heretofore utilized or the rights afforded in the enforcement of § 151.7(a). The present procedure makes no provision for an appeal or hearing in the case of non-compliance. Therefore, the comments urging procedural changes are not germane to this amendment. It is also noted that these comments failed to mention any specific instances indicating a need for revision of the procedures currently being utilized by the Agency. In response to the other comments, subparagraphs (2) and (3)(ii) are added to § 151.7(a) to reflect procedures already utilized by the Agency. Subparagraph (2) provides for the issuance of a notice of non-compliance by the Agency to the sponsor. Subparagraph (3)(ii) provides that assistance is not withheld in cases of minor defaults under old agreements where the sponsor is taking reasonable prompt action to correct the deficiency, or where the non-compliance relates to an obsolete obligation.

Sections 151.7(a)(3)(i) and (ii) excuse non-compliance with past agreements only under the specific conditions stated therein. Under the general rule, any continuing non-compliance (such as an exclusive right originally granted in violation of a covenant or agreement with the United States) disqualifies all of the sponsor's airports from FAAP assistance until the sponsor terminates the non-compliance.

This amendment will not be applied retroactively but will only govern grant applications made after its effective date. However, in passing on these future grant applications, the FAA will apply the requirement of compliance to all past agreements that fall within the scope of § 151.7(a)(1).

§ 151.27(c) but that the FAA would make or obtain its own appraisal, and that the property interest would not be eligible for inclusion in any airport development project until that appraisal was made. A comment that the rule of § 151.41(b)(6) should be dropped is not germane to the proposal, and another comment that the FAA should make the value determination before the grant agreement is entered into only suggests what is implicit in the proposal.

Pertinent comments suggest appraisal by two local appraisers and one Federal appraiser; and raise the question of recourse if the sponsor considers the appraisal too low. The first of these suggestions would frustrate the purpose of the proposal. However, in response to the second comment, express provision for reconsideration of appraisals is being made in § 151.27(c). If he wishes, the sponsor may submit local appraisals with his request for reconsideration.

The amendments made to §§ 151.23, 151.27(c) and 151.39(a) and (c) relate to this proposal. The principle of this proposal is also being applied to the other situations described in § 151.27(c) that require appraisal, and § 151.23 is being conformed accordingly.

Proposal 4—CONSIDERATION OF LOCAL COMMUNITY INTEREST

The purpose of this proposal was to require the sponsor to submit information to the Administrator that adequately demonstrates to him that fair consideration has been given to the interests of the communities in or near which the project is located.

A suggestion that FAA hold a public hearing for this purpose is beyond the scope of the Notice. A majority of the adverse comments misconstrued the proposal as shifting to the sponsor the burden of determining whether fair consideration had been given to local community interest. Thus, a number of comments expressed fear that the new amendment would have the effect of delaying or inhibiting needed airport development by requiring the sponsor to enter into prolonged negotiations with local political subdivision to obtain their approval. Other comments specifically advocated that the FAA should continue to satisfy itself in this matter by independent inquiry.

Section 151.39(a)(5) currently requires that the Administrator be satisfied that fair consideration has been given to local community interest. The amendment does not alter this requirement; it only requires the sponsor to submit with his project application a statement specifying what consideration has been given to local community interest, including the substance of any local objection or approval that has been made known to the sponsor. As amended, § 151.39(a)(5) specifically provides that the Administrator considers all pertinent information including the sponsor's statement. There is no requirement on the sponsor to enter into prolonged or unreasonable negotiations with local political subdivisions.

Sections 151.26 and 151.39(a)(5) are amended accordingly.

Proposal 5—PERIODIC COST ESTIMATE FOR FORCE ACCOUNT WORK

The purpose of this proposal was to delete the requirement contained in §§ 151.51(b), 151.57(a)(2) and 151.67(a)(5) that a sponsor using a force account must file a Periodic Cost Estimate (FAA Form 1629) when he applies for a grant payment. The majority of comments received in response to Notice 66–5 were in favor of this change. One comment questioned the justification for the deletion unless the substantiating detail for FAA Form 1630 was submitted in some other manner. However, 151.55 requires the sponsor to keep records of the itemized costs of force account work and to make these records available to the FAA after proper notice. These records may be used to substantiate FAA Form 1630. Therefore, §§ 151.51(b), 151.57(a)(2) and 151.67(a)(5) are amended as proposed in this Notice.

Programming Standards Proposals

Proposal 1—HIGH OR MEDIUM INTENSITY RUNWAY LIGHTING

intensity lighting under 75 percent Federal participation where Federal participation in the extension would be reduced to 50 decent. Upon reconsideration in light of these comments and other factors, the proposal to reduce now existing 75 percent participation in high intensity lighting to 50 percent is being dropped. Thus, under § 151.43(d)(1) which is not being substantively amended, Federal participation remains 75 percent of the cost of installing high intensity runway edge lighting on a designated instrument landing runway (where it is required by § 151.13(b)(3) and on other runways with an approved straight-in procedure (where it is optional).

It was also commented that a sponsor who is willing to install *high* intensity runway edge lighting should always receive a Federal share of 50 percent of that cost, and not only 50 percent of the cost of *medium* intensity lighting. This comment fails to show that the proposed limitation to 50 percent of medium intensity lighting is not consistent with the aim of allocating available aid funds so as to produce the greatest progress towards the policy goals of the Federal Airport Act.

Accordingly, § 151.87(d) is being amended to fix the Federal share in runway edge lighting projects at 50 percent of the cost of medium intensity lighting in all instances where a higher Federal participation is not otherwise provided, except where low intensity lighting is installed. Section 151.43(b) is amended to cross reference the Federal participation provisions in Subpart C such as § 151.87(d), and the words "runway edge" are inserted in subparagraph (d)(1) for conformity.

Proposal 2—IN-RUNWAY LIGHTING

The purpose of Programming Standard Proposal 2 was to substitute the more accurate and comprehensive terms "touchdown zone lighting system, centerline lighting system and exit taxiway lighting system" in place of the language currently used in §§ 151.43(d)(2), 151.87(e) and Appendix F to describe the "in-runway lighting system". All of the comments to this proposal favored this change and therefore it is incorporated into the amendment as proposed.

Proposal 3—PAVING SECOND RUNWAYS

This portion of the Notice proposed adoption of new standards recently developed by the FAA for the eligibility of second runway paving on the basis of wind conditions on airports that serve only small aircraft, and clarification of the distinction between eligibility based on wind conditions and eligibility based on other factors.

One comment misconstrued the amendment as possibly excluding turf landing strips from the FAAP program. Sections 151.77, 151.79 and new § 151.80 only apply to runway paving and therefore in no way exclude turf landing strips from other FAAP assistance.

One comment contended that wind coverage and noise were not the only factors to be considered in second runway orientation. The Agency believes this contention to be valid and therefore § 151.79(a)(3) will provide that due consideration be also given to topography, soil conditions and other pertinent factors in runway orientation.

One comment criticized the amendment for proposing several sets of criteria for eligibility of paving a second runway for general aviation airports. It considered this to be confusing and felt that no proper basis had been given for the proposal. As an alternative, it suggested that a single standard be adopted combining both the cross-wind component and the number justifying aircraft operations. After careful consideration the Agency finds this comment to be without merit. The effect of the cross-wind varies according to the size of the aircraft. Therefore by classifying airports according to the size of aircraft using them, this amendment provides more accurate standards of determining programming eligibility for various general aviation airports than a single criterion would yield. To make § 151.79 more easily comprehensible, paragraph catch lines have been supplied.

be eligible for Federal assistance. However, two comments felt that the programming standards as proposed were too restrictive and advocated that Federal assistance for economy approach landing aids not be limited to airports with visual deficiencies. One of the comments suggested that economy approach lighting aids should be eligible for airports with at least medium intensity lighting at the prime runway approach. The other maintained that all systems which simplify the approach and landing process, including economy approach lighting aids, should be eligible for Federal assistance at all air carrier airports.

In response to these comments, economy approach lighting aids are also made eligible at airports where they will reduce minimums for landing purposes. Therefore new § 151.87(j) provides for FAAP assistance where the economy approach lighting aids will either correct a visual deficiency or permit operations at lower minimums. Otherwise the standards suggested by the comments are unacceptable because the resulting benefits would not be commensurate with the Federal funds expended.

One comment opposed the programming standard under which the airport does not qualify for economy approach lighting aids if the FAA will install approach lighting aids under the Facilities and Equipment Program within the next three years. Because of the number of permanent airport improvements requiring Federal assistance, it is Agency policy not to expend funds for temporary development or construction except where necessary to permit uninterrupted operation of the airport during stages of construction. The expenditure of FAAP funds for lighting aids that would be replaced within three years is contrary to this policy and therefore this requirement is retained in new § 151.87(j). In addition, new § 151.87(j) contains a list of some of the economy approach lighting aids that are within the scope of that section.

Proposal 6—AIRPORT UTILITIES

The purpose of Programming Standard Proposal 6 was to amend § 151.93(b) to limit Federal participation in airport utility construction, installation and connection when the utility serves both eligible and ineligible airport areas and to restate the programing standards for water utility systems.

A number of comments objected to the proposal that costs of airport utilities serving both eligible and ineligible airport areas should be eligible only so far as they exceed the cost of providing utility service necessary for all ineligible airport facilities. One comment advocated the continuation of the present system of pro-rating these costs while another suggested that the pro-rating of costs be continued just for the electrical facilities required for runway lighting. A third comment felt that airport utilities should be eligible to the extent of providing service to eligible areas.

We agree that the statutory provisions allow for some exercise of discretion in this area. However, it is established Agency policy that Federal funds should not be used to provide any supporting utility for an ineligible airport area of facility. The proposed amendment to limit the Federal participation merely extends this policy within its logical limits and is considered necessary to ensure that the Federal funds available for assistance are utilized to promote the greatest degree of airport safety. Therefore § 151.93(b) is amended to incorporate the programming standard limitation proposed Notice 66–5.

One comment suggested a standard for determining the Federal share of the cot for airport water utilities in terms of the cost of installations of a specific size and description. This type of standard is considered to be too narrow in scope to effectively be administered to the number and variety of airports seeking Federal assistance. No other comments were received adverse to this portion of the proposal and therefore it also is incorporated into § 151.93(b).

Proposal 7—REMARKING RUNWAYS AND TAXIWAYS

It was proposed to clarify the programming standards for runway and taxiway marking and remarking. No adverse comments were received, but one comment suggested that eligibility of remarking necessitated by the obliteration of runway or taxiway markings by construction routing be mentioned specifically. This amendment, together with the suggestion, is being effected by adding a new § 151.15 and amending § 151.95(f).

to provide for the eligibility of aprons for cargo buildings that serve the public, and item 4 of the Typical Ineligible Items is modified to reflect this change. In addition, several other editorial changes have been made to the list of Typical Eligible Items.

One comment inquired as to the eligibility of taxiways leading to cargo areas. Taxiways are regulated by § 151.81 and Appendix D and are beyond the scope of this amendment.

Other Matters

In addition to these proposals contained in Notice 66–5, it is considered that the acquisition of small parcels of land for non-landing area facilities should be eligible for FAAP assistance. The present restriction is relieved by the deletion of the exception contained in item 1(b) of the list of Typical Eligible Items in Appendix A.

In consideration of the foregoing, Part 151 is amended, effective January 27, 1967.

This amendment is made under the authority of sections 1–15 and 17–20 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1119).

Amendment 151–18

Exclusive Rights at Airports

Adopted: April 28, 1967 **Effective: May 5, 1967**

(Published in 32 FR 6925, May 5, 1967)

The purpose of these amendments is to clarify the policy of the FAA relating to exclusive rights at airports, as set forth in Parts 151 and 153 of the Federal Aviation Regulations.

The intent of the exclusive rights policy is to prohibit the granting, and to require the termination, of any exclusive right that is contrary to section 308(a) of the Federal Aviation Act (49 U.S.C. 1349(a)) and the Exclusive Rights Policy of October 25, 1965 (30 FR 13661) at any airport now or hereafter owned or controlled by a sponsor receiving aid under the Federal-aid Airport Program.

A question has been raised as to whether the term ''subsequently acquired'' in the covenant in § 151.121 implies ownership so that the covenant would not apply to airports the sponsor may in the future control but not actually own. In addition, § 151.121 does not now specifically reflect the policy's prohibition against exclusive rights at airports presently owned or controlled by the sponsor, other than the one for which aid is requested. Therefore, the covenant contained in § 151.121 is being amended to correctly reflect the current exclusive rights policy.

Section 153.13(a)(3) and (4) currently contains a covenant prohibiting exclusive rights only at the airport receiving the property interest in the land and § 153.13(c) exempts from its effect exclusive rights permissible under section 13(g) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1622(g)) at airports that had earlier received a grant under that provisions. In order to make Part 153 correctly reflect the current exclusive rights policy, § 153.13(a)(3) is also being amended and § 153.13(c) is deleted.

Since these amendments relate to public grants and benefits, notice and public procedure thereon are not required and the amendments may be made effective upon publication..

In consideration of the foregoing, Parts 151 and 153* are amended, effective May 5, 1967.

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*Part 153 is published separately.

The purpose of this amendment is to specify the date that controls the applicability of the technical guidelines made mandatory by § 151.72 to an airport project, and to clarify § 151.7.

Since technical guidelines must be amended from time to time to keep them current with technological progress and the state of the art, it may happen that a substantial change is made in the standards while a project is pending before the FAA. The sponsor normally makes his basic decision on the technical and economic feasibility of a project on the basis of the technical guidelines in effect when he prepares the request, Form FAA–1623, as required by § 151.21(a). It therefore appears that, normally, the standards should attach to the project as they are in effect on the date written on the notification to the sponsor of tentative allocation of funds under § 151.21(b), and this amendment so provides.

However, it may happen that an amendment to the technical guidelines becomes effective after that date, and that the public interest would be advanced by applying that amendment to the project. It is therefore provided herein that this may be done by agreement between the sponsor and the Administrator. This amendment also spells out the established interpretation that generally the standards of Subpart C applicable to a project are those in effect when the grant agreement is made. Changes corresponding to this amendment will be made in the FAA forms affected.

Section 151.7(a) provides that Federal-aid Airport grants are made only to sponsors who have met the requirements of any past agreements with the United States, and subparagraph (1) lists some such agreements by way of illustration. Conveyances under Regulation 16 of the War Assets Administration are being added to the list. The present wording of subparagraphs (2) and (3) could be misconstrued as providing procedural safeguards and excuses for non-compliance only in relation to the agreements listed in paragraph (1). Subparagraphs (2) and (3) are therefore reworded to make them clearly applicable to all agreements covered by paragraph (a), whether listed or not.

Since these amendments relate to public grants and benefits and are clarifying in nature or make the regulation less burdensome to comply with, notice and public procedure thereon are not required and the amendments may be made effective immediately.

These amendments are made under the authority of secs. 1–15 and 17–21 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1120).

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations (14 CFR Part 151) is amended, effective June 28, 1967.

Amendment 151–20

United States' Share of Project Costs in Public Land States

Adopted: November 29, 1967 **Effective: December 6, 1967**

(Published in 32 FR 17471, December 6, 1967)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to revise the table of percentages in § 151.43(c) that states the United States' share of project costs in public land States.

Section 10(b) of the Federal Airport Act (49 U.S.C. 1109(b)) provides: "In the case of any State containing unappropriated and unreserved public lands and non-taxable Indian lands (individual and tribal) exceeding 5 per centum of the total area of all lands therein, the United States share under subsection (a) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 per centum, or (2) a percentage equal to one-half the percentage that the area of all such lands in such State is of its total area." The percentages for those States are now stated in § 151.43(c).

In consideration of the foregoing, effective December 6, 1967, Part 151 of the Federal Aviation Regulations is amended by amending § 151.43(c).

This amendment is made under the authority of sections 1–15 and 17–21 of the Federal Airport Act (49 U.S.C. 1101–1114 and 1116–1120).

Amendment 151–21

Runway Clear Zones

Adopted: January 2, 1968 **Effective: January 9, 1968**

(Published in 33 FR 257, January 9, 1968)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to amend § 151.9(b) to reflect the pertinent portion of the description of a runway clear zone formerly prescribed in § 77.19(c).

Section 151.9(b) describes a runway clear zone as the innermost part of the runway approach area, and states that the standard configuration and length of each runway clear zone is prescribed in § 77.199(c). Amendment 77-4 deleted that provision from § 77.19(c), but the cross-reference remained in § 151.9(b). Accordingly, the FAA is substituting the pertinent portion of the provision formerly in § 77.19(c) for present § 151.9(b).

Since this amendment relates to public grants, benefits, and contracts, it is excepted from the procedural and effective date provisions of section 553 of Title 5, United States Code, and makes no substantive change. Therefore, it may be made effective immediately.

In consideration of the foregoing, effective January 9, 1968, Part 151 of the Federal Aviation Regulations is amended by amending § 151.9(b).

This amendment is made under the authority of sections 1–15 and 17–21 of the Federal Airport Act (49 U.S.C. 1101–1114 and 1116–1120).

Amendment 151–22

Updating Certain References

Adopted: May 28, 1968 **Effective: July 4, 1968**

(Published in 33 FR 8266, June 4, 1968)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to update certain references in §§ 151.11(b), 151.11(d), 151.87(b), 151.91(a), and 151.111(c) that are incomplete, or superseded and obsolete.

The runway clear zone requirements in § 151.11 for new and existing airports apply both to runways and to landing strips at those airports. However, paragraph (b) and the last sentence of paragraph (d) of § 151.11 do not contain a reference to "landing strips". Accordingly, the FAA is amending those paragraphs of § 151.11 to add the omitted reference to "landing strips".

Sections 151.87(b) and 151.91(a) now refer to obsolete Technical Standard Order N18 (Criteria for Determining Obstructions to Air Navigation). TSO–N18 was superseded with the adoption of Federal Aviation Regulations Part 77, "Objects Affecting Navigable Airspace", and other references to TSO–N18 were deleted by Amendment 151–7, effective June 8, 1965 (30 FR 7484). The FAA is amending

Since this amendment relates to public grants and benefits, notice and public procedure thereon are not required under section 553 of Title 5, United States Code.

In consideration of the foregoing, Part 151 of the Federal Aviation Regulation is amended effective July 4, 1968.

This amendment is made under the authority of the Federal Airport Act, as amended (49 U.S.C. 1101–1120).

Amendment 151–23

Equal Employment Opportunity

Adopted: June 27, 1968 **Effective: July 1, 1968**

(Published in 33 FR 9543, June 29, 1968)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to implement the revised equal employment opportunity regulations issued by the Secretary of Labor on May 21, 1968 (41 CFR Part 60–1; 33 FR 7804, May 28, 1968). This amendment reflects the Notice issued by the Secretary of Transportation, and published in this issue of the Federal Register, regarding the equal employment opportunity regulations of the Department of Transportation.

The revised equal employment opportunity regulations become effective July 1, 1968, for FAAP Grant Agreements, and for certain contracts, the solicitations, invitations for bids or requests for proposal which were sent on or after said effective date and for all negotiated contracts executed on or after said effective date, as provided in § 60–1.47, and made under any FAAP Grant Agreement. Notwithstanding the foregoing, the regulations of the Secretary of Labor shall become effective as to all contracts executed on or after October 20, 1968.

Section 60–1.6 imposes upon the Department of Transportation, and its operating administrations, certain duties in addition to primary responsibility for obtaining compliance with the equal opportunity clauses, Executive Order 11246, the regulations in revised Part 60–1, and orders issued pursuant thereto. Action to carry out the duties under § 60-1.6 cannot be completed before the effective date of revised Part 60–1 of the Secretary of Labor. Therefore, this regulatory action is taken to implement the remainder of the revised regulations of the Secretary of Labor on July 1, 1968, consistent with the Notice issued by the Secretary of Transportation. Subsequent rule-making action will reflect the responsibilities of the Department of Transportation under the revised Part 60–1 of the Secretary of Labor.

Since this amendment relates to public grants, benefits, and contracts, notice and public procedure thereon are not required and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations is amended, effective July 1, 1968.

This amendment is made under the authority of the Federal Airport Act, as amended (40 U.S.C. 1101–1120); Executive Order 11246 (30 FR 12319); and the regulations of the Secretary of Labor (33 FR 7804, May 28, 1968.

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generally discontinue the issuance of Certificates of "Lawful Authority to Operate a True Light" (True Light Certificates), under § 171.61, to revoke most of those Certificates; to terminate most pending applications for those Certificates; to delete the requirement that certain Federal-aid Airport Program sponsors apply for those Certificates, under § 151.87; and to ensure the acceptable operation of airport lighting in new § 151.86.

This amendment was proposed in Notice 68–12 that was issued on May 15, 1968, and published in the Federal Register on May 22, 1968 33 FR 7582). The comments received in response to the Notice either generally agreed or expressed no objection to the amendments proposed. In the light of the comments received in response to the notice either generally agreed or expressed no objection to the amendments proposed. In the light of the comments received, the FAA is adopting the amendments as proposed in Notice 68–12, for the reasons stated therein.

As amended, the FAA no longer issues, or accepts an application for, a "True Light Certificate" under Part 171. New § 171.61(a) generally revokes each "True Light Certificate" under Part 171. New § 171.61(a) generally revokes each "True Light Certificate", and terminates each application for a Certificate. An exception in new § 171.61(b) preserves the Certificate or application of a Federal-aid Airport Program sponsor that was required to apply for a "True Light Certificate" under the former regulations. However, that sponsor may choose to comply with new § 151.86(b)(3), and surrender its certificate or terminate its application.

As amended, sponsors of projects that involve installing airport lighting, and related electrical work, are no longer required to apply for a "True Light Certificate" under Part 151. Instead, new § 151.86(b)(3) requires these sponsors to agree to operate the airport lighting installed either throughout each night of the year, or according "to a satisfactory plan of operation". Under new § 151.86(c) the sponsor may choose to submit "a proposed plan of operation of the airport lighting installed for periods less than throughout each night of the year", to specify "the times when the airport lighting installed will be operated", and to satisfy the Administrator that the plan "provides for safety in air commerce, and justifies the investment of Program funds." Under new § 151.86(d), these new provisions apply to the sponsor of an "airport lighting" project that has not entered into a grant agreement on the effective date of this amendment (whether or not it has applied for a "True Light Certificate"). As stated above, if a sponsor's Certificate or application is preserved under § 171.61(b), it may agree to comply with § 151.86(b) (3) and surrender its Certificate or terminate its application under § 151.86(e).

As stated in Notice 68–12, new §§ 151.86(a) and 151.86(b) reflect the provisions in present §§ 151.87(a) and 151.87(b), which are being deleted. New § 151.86(a) also reflects the fact that the Administrator may find that airport lighting is necessary under § 151.13. Editorial changes to §§ 151.87(c), 151.87(d), 151.87(h), 151.87(h), 151.87(k) and Appendix F of Part 151 are also adopted as proposed in Notice 68–12.

In addition to the amendments proposed in Notice 68–12, the FAA is adopting a clarifying amendment to § 151.111(c) (2). In Amdt. 151–22, the FAA amended § 151.111(c) (2) to refer to a new publication that identifies large and medium hubs served by scheduled air carrier service. No change was made in the substance of § 151.111(c) (2), and an airport that would be eligible under the former language of paragraph (c) continues to be eligible under that paragraph as changed by Amdt. 151–22. However, the new language of § 151.111(c) (2) may be misunderstood to mean that if any airport in a large or medium hub is served by scheduled air carrier service, then every other airport in that hub is excluded. Since the FAA does not intend this construction, § 151.111(c) (2) is clarified to make that fact clear.

Since this amendment relates to public grants and eliminates an unnecessary procedure, I find that good cause exists to make this amendment effective in less than 30 days.

In consideration of the foregoing, effective September 5, 1968, Parts 151 and 171 of the Federal Aviation Regulations are amended.

(Published in 33 FR 14535, September 27, 1968)

The purpose of these amendments to Part 151 of the Federal Aviation Regulations is to disclose the guidance of the public the officials making the determinations required under § 151.11 concerning clear zone areas, and to correct the references to FAA Forms made in § 151.67(a) and (6).

Section 151.11 provides the requirements for runway clear zones that all sponsors of projects involving grants-in-aid under the Federal-aid Airport Program must meet. Under that section the Administrator has authority to apply and approve deviations from standard configurations and length and to determine the adequacy of property interests in runway clear zone areas. This amendment to § 151.11 shows that the Regional Directors will now have the same authority with respect to runway clear zones located in their regions.

The amendments to § 151.67(a) (1) and (6) are made to conform references therein to FAA Forms to the designations of forms now used.

Since these amendments are procedural in nature, I find that notice and public procedure thereon are not required, and that they may be made effective on less than 30 days' notice.

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations is amended effective September 27, 1968.

These amendments are made under the authority of the Federal Airport Act, as amended (49 U.S.C. 1101–1120).

Amendment 151–26

Eligiblity Standards for Buildings Housing Snow Removal and Abrasive Spreading Equipment and Materials

Adopted: December 5, 1968 **Effective: January 11, 1969**

(Published in 33 FR 18434, December 12, 1968)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to provide uniform standards based on temperature criteria for buildings used to house snow removal abrasive spreading equipment and materials, for eligibility for participation under the Federal-aid Airport Program. These uniform standards apply regardless of the location of the airport. This amendment was proposed in Notice 68–17 issued on July 24, 1968 (33 FR 10882).

Several favorable public comments were received on the proposal. Other comments opposed the proposal on the ground that the amount of snowfall, rather than temperature, should be the standard used for determining eligibility for participation under § 151.93(a). However, although the amount of snowfall in an area determines the need for snow removal and abrasive spreading equipment and materials, it is the extreme low temperature in an area that creates the need for adequate housing to assure immediate availability of the equipment and materials for use.

Amendment 151–8, effective July 23, 1965, made field maintenance equipment buildings eligible for inclusion in airport development projects located in 15 named States, and in other locations, having a mean daily minimum temperature of zero degrees Fahrenheit, or less, for at least 20 days each year for the five years preceding application for Federal aid. The inclusion of the airport development projects in the 15 named States, as such, was based on official statistics of the United States Department of Commerce Weather Bureau for the period 1921–1955, published in 1961, showing that all airports in

Amendment 151–27

United States' Share of Project Costs in Public Lands States

Adopted: December 27, 1968 **Effective: January 4, 1969**

(Published in 34 FR 131, January 4, 1969)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to revise the table of percentages in § 151.43(c) that states the United States' share of the costs of an approved project for airport development in each State in which the unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceed five percent of its total land. Section 151.43(c) reflects the requirement of section 10(b) of the Federal Airport Act (49 U.S.C. 1109).

Based on information received from the Department of the Interior, the FAA periodically redetermines the percentages in § 151.43(c) (see Amendments 151–2, 151–10, 151–16, and 151–20). The FAA is amending § 151.43(c) to reflect the most recent Department of Interior information. The amendment increases the percentage for Utah; decreases the percentages for Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, South Dakota, and Wyoming; and leaves the percentages for Alaska, Nevada, and Washington unchanged.

Since the amendment relates to public grants, benefits, and contracts, notice and public procedure thereon are not required, and it may be made effective upon publication.

In consideration of the foregoing, the table in paragraph (c) of § 151.43 of the Federal Aviation Regulations is amended effective January 4, 1969.

This amendment is issued under the authority of sections 1–15 and 17–21 of the Federal Airport Act (49 U.S.C. 1101–1114 and 1116–1120).

Amendment 151–28

Second Runway Paving for Inclusion in FAAP Project; Wind Conditions

Adopted: January 8, 1969 **Effective: February 14, 1969**

(Published in 34 FR 551, January 15, 1969)

The purpose of these amendments to Part 151 of the Federal Aviation Regulations is to change the standards for eligibility of second runway paving at airports for inclusion in projects under the Federal-aid Airport Program by (1) eliminating paragraph (e) of § 151.79 concerning airports with limited facilities serving small aircraft only; and (2) reducing the minimum cross-wind component to which the existing paved runway is subject, at airports serving small aircraft only, as provided in paragraphs (c) and (d) of that section.

These amendments were proposed in Notice 68–23 issued on September 27, 1968, and published in the Federal Register on October 4, 1968 (33 FR 14887). Six public comments were received on the Notice. Three of the comments either concurred with, or expressed no objection to, the proposal as a whole. Two comments concurred with the proposal but respectively recommended that the cross-wind component to which the existing paved runway is subject should be fixed at more than 11.5 or 12 miles per hour in § 151.79(c)(2) and (d)(2) as the basis for determining the need for a second runway at airports serving small aircraft only. The sixth comment concurred with the proposal to eliminate paragraph (e) of § 151.79 that, as stated in the Notice, is no longer feasible or meaningful, for the

In consideration of the foregoing, § 151.79 of the Federal Regulations is amended effective February 14, 1969.

These amendments are made under the authority of sections 1–15 and 17–20 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1119), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and section 1.4(b)(2) of the Regulations of the Office of the Secretary of Transportation.

Amendment 151–29

Runway Grooving to Improve Skid Resistance

Adopted: January 27, 1969 **Effective: February 4, 1969**

(Published in 34 FR 1634, February 4, 1969)

The purpose of these amendments to Part 151 of the Federal Aviation Regulations is to clarify that runway grooving to improve skid resistance is eligible for inclusion in a project under the Federal-aid Airport Program under § 151.77 of, and Appendix C to, Part 151.

Section 151.77(b) provides that the kinds of runway paving that are eligible for inclusion in a project include pavement construction and reconstruction. The question has arisen whether runway grooving is an eligible item of runway paving under § 151.77(b). Runway grooving has been long recognized a means of improving skid resistance, and it is considered to be an eligible item of airport improvement. These amendments are issued to clarify the language of the rule by stating specifically that this item is eligible for inclusion in a project under that provision of Part 151.

Appendix C to Part 151 contains an itemization of typical eligible and ineligible items of runway paving. This appendix is also amended to include runway grooving to improve skid resistance as a typical eligible item.

Since these amendments are clarifying in nature and impose no additional burden on any person, notice and public procedure thereon are not required, and they may be made effective in less than 30 days.

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations is amended effective February 4, 1969.

These amendments are issued under the authority of Section 1–15 and 17–20 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1120), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and section 1.4(b)(2) of the Regulations of the Office of the Secretary of Transportation.

Amendment 151–30

Exclusive Rights at Airports

Adopted: February 25, 1969 **Effective: March 1, 1969**

(Published in 34 FR 3656, March 1, 1969)

The purpose of these amendments is to clarify the policy of the Federal Aviation Administration relating to exclusive rights at airports, as set forth in Parts 151 and 153 of the Federal Aviation Regulations.

On August 31, 1966, the FAA issued Amendment 151–14 to conform § 151.121 with the current policy on exclusive rights, at airports on which sponsors desired assistance under the Federal-aid Airport

that were not, by requiring termination at different times. The latter must be terminated at the earliest renewal, cancellation, or expiration date applicable to the agreement that established them, whereas the former must be terminated before any grant offer under the Federal-aid Airport Program, or upon any conveyance affected by Part 153. Therefore, the covenants in §§ 151.121 and 153.13(d) are amended to accurately make the distinction. In view of the changes made by this amendment, the sponsor's certification that there is no exclusive right not subject to termination is unnecessary, and it is deleted.

Since these amendments relate to public grants and benefits, notice and public procedure thereon are not required and they may be made effective upon publication.

In consideration of the foregoing, Parts 151 and 153 of the Federal Aviation Regulations are amended effective March 1, 1969.

These amendments are made under the authority of sections 308(a) and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a), and the Federal Airport Act (49 U.S.C. 1101–1119), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and section 1.4 (b)(2) of the Regulations of the Office of the Secretary of Transportation.

Amendment 151–31

Performance of Construction Work; General Requirements

Adopted: February 27, 1969 **Effective: April 20, 1969**

(Published in 34 FR 4885, March 6, 1969)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to require sponsors to provide, with respect to airport construction work, evidence of satisfactory engineering and construction supervision and inspection. The amendment, therefore, would require a sponsor to advise the Area Manager in writing prior to the commencement of construction work that such supervision and inspection have been arranged, and that the qualifications of personnel performing the supervision and inspection have been reviewed and have been found satisfactory. This amendment was proposed in Notice No. 68–25 issued on October 10, 1968 (33 FR 15435).

Several favorable public comments were received on this proposal. One comment, however, suggested that, once a sponsor has established that it possesses satisfactory engineering and construction supervision and inspection, it should not be required to do so again unless a change occurs. In recognition of the validity of this comment, this amendment will authorize the Area Manager to dispense with the notification requirement where the sponsor has previously demonstrated that it possesses the required organization, procedures, and personnel.

This amendment will involve a revision of § 151.45 by the addition of a new paragraph (f), and a revision of § 151.51(a)(3) to insure that the same supervision and inspection standards are also applied to construction work-force accounts. Finally, the heading of § 151.51 will be revised to include the word "sponsor" before the word "force" and so to distinguish between force account work performed by the sponsor and that performed by a contractor.

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations is hereby amended effective April 20, 1969.

This amendment is issued under the authority of the Federal Airport Act, as amended (49 U.S.C. 1101–1120), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and section 1.4(b) of the Regulations of the Office of the Secretary of Transportation.

On February 25, 1969, the FAA issued Amendment 151–30 to clarify the policy on exclusive rights, at airports on which sponsors desired assistance under the Federal-aid Airport Program, that were contrary to section 308(a) of the Federal Aviation Act (49 U.S.C. 1349(a)) and the Policy on Exclusive Rights at Airports issued October 25, 1965 (30 FR 13661). In order to accurately reflect that policy, Amendment 151–30 distinguished between exclusive rights that were contrary to the FAA's exclusive rights policy at the time they were granted, and those that were not, by requiring termination at different times.

Since Amendment 151–30. §§ 151.121(d) and 153.13(d)(3) require the sponsor or grantee, respectively, to agree to terminate "any other exclusive right." In its context, this language covers aeronautical activities alone. However, some sponsors under the Federal-aid Airport Program have asserted that the phrase "any other exclusive right" can be interpreted to mean all exclusive activities on the airport, including non-aeronautical activities. In order to avoid this interpretation, §§ 151.121(d) and 153.13(d)(3) are now amended to related to aeronautical activities alone.

The amendments to §§ 151.21(a) and 151.57(a) are made to conform references to the FAA Forms to the forms now used. The amendments to §§ 151.21(c) and 151.67(a)(3) are made to strike out references to an FAA Form that has been discontinued.

Since these amendments relate to public grants and benefits, and are only clarifying or procedural in nature, I find that notice and public procedure thereon are not required, and that they may become effective upon publication.

In consideration of the foregoing, effective June 19, 1969, Parts 151 and 153 of the Federal Aviation regulations are amended.

These amendments are made under the authority of sections 308(a) and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a), 1354),the Federal Airport Act, as amended (49 U.S.C. 1101–1120), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and § 1.4(b)(2) of the Regulations of the Office of the Secretary of Transportation.

Amendment 151–33

Land Acquisition Costs for Approach Lighting Systems—U.S. Share

Adopted: June 16, 1969 **Effective: July 21, 1969**

(Published in 34 FR 9707, June 21, 1969)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to provide, for projects under the Federal-aid Airport Program, that the United States' share of the acquisition costs of land needed for the installation of approach lighting systems is 75 percent regardless of the intensity of the lights involved.

This amendment was proposed in Notice 69–8, issued on 4 March 1969, and published in the Federal Register on 12 March 1969 (34 FR 5111). Seven public comments were received on the Notice, all of which concurred in the proposal. One comment suggested that the 75 percent Federal participation in acquisition costs for a parcel of land within a clear zone should also apply to any excess portion of that parcel lying outside the clear zone boundary. However, this comment is outside the scope of the Notice.

As proposed in the Notice, this amendment provides for the same percent of Federal participation in the acquisition costs of land needed for medium intensity approach lighting systems and like systems with runway alignment indicator lights that are now incorporated into the National Airspace System, as has been previously applied to high intensity approach lighting systems.

Amendment 151–34

Allowable Project Costs for Donated and Certain Other Items and Miscellaneous Amendments

Adopted: July 31, 1969 **Effective: September 7, 1969**

(Published in 34 FR 12883, August 8, 1969)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to provide for the appraisal of project costs in certain cases after a Federal Aid to Airports grant agreement is executed, and a downward adjustment of the United States' share thereof when appropriate. Additionally, subparagraph (a)(3) of § 151.67 is deleted since it is now superfluous.

The amendment was proposed in Notice 69–20 that was published in the Federal Register on May 8, 1969 (34 FR 7455). The comments received in response to the Notice either supported or expressed no objection to the amendment proposed.

As proposed in the Notice this amendment provides a specific appraisal procedure (similar to that in § 151.27) for use after a grant agreement is entered into but before final payment is made, when any part of the estimated project costs consists of the value of donated land, labor, materials, or equipment, or of the value of a property interest in land acquired at a cost that (as represented by the sponsor) is not the actual cost or the amount of an award in eminent domain proceedings, and the sponsor, through inadvertence or lack of knowledge at the time of filing did not state these facts in the project application.

Under this amendment the sponsor has the right to request reconsideration, as it has under the § 151.27 procedure, thus safeguarding its interest. No increase in the United States' share would be made in these circumstances since any adjustment in the United States' share of project costs upward would require an amendment to the grant agreement.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

Additionally, amendment 151–32 to Part 151, published in the Federal Register on June 19, 1969 (34 FR 9616), removed all references to Form FAA 1624.1 from §§ 151.21 and 151.67(a)(3), and substituted FAA Form 1624 in place thereof. Form FAA 1624.1, an airport project application for additional projects, has been discontinued, and project application FAA Form 1624 is now used for the original and all subsequent or additional projects at an airport. Section 151.67(a)(3) has prescribed the use of the discontinued Form FAA 1624.1 and distinguished it from FAA Form 1624. Since Form FAA 1624.1 has been discontinued, § 151.67(a)(3) no longer has relevance or legal significance, and it is therefore deleted. Since this amendment relates to public grants and benefits, notice and public procedure thereon are not required.

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations is amended, effective September 7, 1969.

These amendments are made under the authority of sections 1–15 and 17–20 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1119), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and § 1.4(b)(1) of the Regulations of the Office of the Secretary of Transportation.

U.S.C., 554, 556, and 557 in § 151.65(c) for prior references to sections of the Administrative Procedure Act, that has been repealed and superseded.

Deletion of the exit taxiway lighting systems as part of in-runway lighting was proposed in Notice 68–31 and published in the Federal Register on November 22, 1968 (33 FR 17315). The two public comments received on the Notice objected to the proposal because they considered exit taxiway lighting systems, as a useful tool and essential for safe and efficient operations during adverse weather, to be properly eligible for Federal funds on the same basis as is in-runway centerline lighting.

Basically, the reason for 75 percent Federal participation is because the sponsor is required to include the installation of in-runway lighting in its next FAAP project when the FAA determines it is needed for the safe and efficient use of the airport by aircraft. Exit taxiway lighting is no longer required as part of the in-runway lighting system, therefore the basis for 75 percent participation no longer exists. The reason exit taxiway lighting is no longer required is that the benefit originally anticipated was not achieved that is, as stated in the Notice, it is no longer regarded as necessary to Category II operations.

FAA now considers exit taxiway lighting to be a part of the taxiway centerline lighting system, eligible for 50 percent Federal participation. These amendments therefore delete the item from the parenthetical expressions defining "in-runway lighting" in §§ 151.43(d)(2) and 151.87(e), and in item 2 under the heading "Typical Eligible Items" in Appendix F to Part 151, and it is considered to be taxiway lighting under § 151.87(f) and item 3 under that heading of Appendix F.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all relevant matter presented.

These amendments also change § 151.65(c) to substitute references to 5 U.S.C., 554, 556, and 557 for the prior references to sections of the Administrative Procedure Act that have been repealed and superseded. Notice and public procedure thereon are unnecessary since in this respect these amendments merely reflect changes of law.

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations is amended, effective September 26, 1969.

These amendments are made under the authority of sections 1–15 and 17–21 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1120), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and § 1.4(b)(1) of the Regulations of the Office of the Secretary of Transportation.

Amendment 151–36

United States' Share of Project Costs in Public Land States

Adopted: December 4, 1969 **Effective: December 10, 1969**

(Published in 34 FR 19501, December 10, 1969)

The purpose of this amendment to Part 151 of the Federal Aviation Regulations is to revise the table of percentages in § 151.43(c) that states the United States' share of the costs of an approved project for airport development in each State in which the unappropriated and unreserved public lands and nontaxable Indian lands and nontaxable Indian lands (individual and tribal) exceed five percent of its total land. Section 151.43(c) reflects the requirement of section 10(b) of the Federal Airport Act (49 U.S.C. 1109).

Based on information received from the Department of Interior, the FAA periodically redetermines the percentages in § 151.43(c) (see Amendments 151–2, 151–10, 156–16, 151–20, and 151–27). The FAA is amending § 51.43(c) to reflect the most recent Department of the Interior information. The amendment

Act (49 U.S.C. 1101–1114 and 1116–1120); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and § 1.4(b)(1) of the Regulations of the Office of the Secretary of Transportation.

Amendment 151–37

Eligibility of Certain Relocation Costs Connected with Airport Development Projects

Adopted: March 18, 1970 **Effective: March 26, 1970**

(Published in 35 FR 5112, March 26, 1970)

The purpose of this amendment to § 151.39(b)(12) of the Federal Aviation Regulations is to make it clear that the cost of relocating structures, roads, and utilities is eligible for inclusion in a project under the Federal-aid Airport Program only when necessary for eligible airport development.

The term "airport development" is defined in relevant part, in Section 2 of the Federal Airport Act to mean "any work involved in constructing, improving, or repairing a public airport or portion thereof, including the construction, alteration, and repair of airport passenger or freight terminal buildings and other airport administrative buildings . . .," but not including work on airport hangars. In 1961, section 13(b) was added to the Act to exclude from allowable project costs the cost of construction of that part of a project intended for use as a public parking facility for passenger automobiles, or the cost of construction of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport.

Section 13(b) of the Act is implemented by § 151.35. The rules and procedures for airport development projects are limited in application, in § 151.35(a), to work in constructing, altering, or repairing only buildings or parts thereof that are intended to house facilities or activities directly related to safety of persons at the airports (such as the housing of fire and rescue equipment and certain types of field maintenance equipment, and electrical vaults for field lighting, but not terminal construction, in the judgment of the FAA). Section 151.39(b) lists the kinds of airport development described in § 151.35 that are eligible to be included in a project. These include, in paragraph (b)(4), construction, altering, or repairing airport buildings or parts thereof, to the extent that it is covered by § 151.35(a). Consistently, it is considered appropriate to allow the cost of relocating structures, roads, and utilities necessary to allow only airport development that itself is eligible.

Since this amendment relates to public grants, benefits, and contracts, notice and public procedure thereon are not required and it may be made effective in less than 30 days.

In consideration of the foregoing, § 151.39(b)(12) of the Federal Aviation Regulations is amended, effective March 26, 1970.

(Federal Airport Act, as amended; 39 U.S.C. 1101–1120. Section 6(c) of the Department of transportation Act; 49 U.S.C. 1655(c). Section 1.4(b)(2) of the Regulations of the Office of the Secretary of Transportation.)

Aviation Regulations, to implement rule making action of the Secretary of Labor issued on November 18, 1969 and published in the Federal Register on November 22, 1969 (34 FR 18752).

Section 151.49(a) requires each sponsor entering into a construction contract for an airport development project to insert in the contract certain provisions required by the Secretary of Labor, as set forth in Appendix H to Part 151. The new rule issued by the Secretary of Labor affects funds withheld by the FAA, under the already-existing provisions in paragraph H of Appendix H, upon the failure of the contractor or subcontractor to comply with the overtime pay requirements of the Contract Work Hours Standards Act. It provides that if the withheld funds are insufficient to pay both the unpaid wages due laborers and mechanics and the liquidated damages due the United States, the available funds should be used first to compensate the laborers and mechanics for the wages to which they are entitled (or an equitable portion thereof, when the funds are not adequate for this purpose), and the balance, if any, for the payment of liquidated damages.

Since this amendment relates to public grants, benefits, and contracts, notice and public procedure thereon are not required, and since the rule of the Secretary of Labor being implemented is already effective, good cause exists to make this amendment effective in less than 30 days.

In consideration of the foregoing, paragraph H of the Provision Required by the Regulations of the Secretary of Labor, set forth in Appendix H to Part 151 of the Federal Aviation Regulations, is amended, effective March 26, 1970.

(Federal Airport Act; 49 U.S.C. 1101–1120. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c). Section 1.4(b) of the Regulations of the Office of the Secretary of Transportation. Section 151.49(a) of the Federal Aviation Regulations.)

Amendment 151–39

Replacement Housing for Persons Displaced Under FAAP Projects

Adopted: March 27, 1970 **Effective: April 3, 1970**

(Published in 35 FR 5536, April 3, 1970)

The purpose of these amendments to Part 151 of the Federal Aviation Regulation is to implement, with respect to the Federal-aid Airport Program, the policy of the Secretary of the Department of Transportation that no DOT project involving displacement and relocation of persons will be approved unless and until adequate replacement housing that is open to all persons, regardless of race, color, religion, sex or national origin, has already been provided for (build, if necessary) and offered on the same nondiscriminatory basis to all affected persons.

To implement the Secretary's policy, these amendments make the following changes in Part 151.

(1) In § 151.21(a), require the eligible sponsor seeking Federal aid to accompany his request with: (i) a statement as to whether the proposed project involves the displacement and relocation of persons residing on land physically acquired or to be acquired for the project development; and (ii) the sponsor's written assurance that if the project involves displacement and relocation of such persons, adequate replacement housing will be available or provided for (built, if necessary), without regard to their race, color, religion, sex, or national origin, before the execution of a grant agreement for the project.

(2) In § 151.21(b), provide that a project may be selected for inclusion in a program only if the sponsor has submitted a written assurance when required by § 151.21(a)(2) or if the Administrator has determined that the project does not involve the displacement and relocation of affected persons; and provide further that tentative allocation of funds may be withdrawn if such an assurance has not been fulfilled.

(5) In § 151.45(e), provide that the Area Manager does not agree to be the issuance of a notice to proceed with the work to the contractor unless he is satisfied that adequate replacement housing is available and has been offered to affected persons, as required for project eligibility by § 151.39(a)(5). Under this, the policy implemented by these amendments applies to situations in which grant agreements have been entered into but construction has not been commenced before the issuance of these amendments, as well as to future projects.

These charges do not provide that the FAA will itself furnish funds for relocating or providing replacement housing for displaced persons, directly or by including the costs thereof in the United States' share of the allowable costs of a project except to the extent that the cost of land acquired from the owner is shared by the United States under the existing FAAP Program.

Since these amendments relate to public grants, benefits, and contracts, notice and public procedure thereon are not required, and they may be made effective in less than 30 days.

In consideration of the foregoing, Part 151 of the Federal Aviation Regulations is amended, effective April 3, 1970.

(Federal Airport Act, as amended; 49 U.S.C. 1101–1120. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c), Section 1.4(b)(1) of the Regulations of the Office of the Secretary of Transportation.)

§ 151.3 National Airport Plan.

(a) Under the Federal Airport Act, the FAA prepares each year a "National Airport Plan" for developing public airports in the United States, Puerto Rico, the Virgin Islands, and Guam. In terms of general location and type of development, the National Airport Plan specifies the maximum limits of airport development that is necessary to provide a system of public airports adequate to anticipate and meet the needs of civil aeronautics.

(b) If, within the forecast period, an airport will have a substantial aeronautical necessity, it may be included in the National Airport Plan. Only work on an airport included in the current Plan is eligible for inclusion in the Federal-aid Airport Program to be undertaken within currently available appropriations and authorizations. However, the inclusion of an airport in the National Airport Plan does not commit the United States to include it in the Federal-aid Airport Program. In addition, the local community concerned is not required to proceed with planning or development of an airport included in the National Airport Plan.

(Amdt. 151–8, Eff. 6/23/65)

§ 151.5 General policies.

(a) *Airport layout plan.* As used in this part, "airport layout plan" means the basic plan for the layout of an eligible airport that shows, as a minimum—

(1) The present boundaries of the airport and of the offsite areas that the sponsor owns or controls for airport purposes, and of their proposed additions;

(2) The location and nature of existing and proposed airport facilities (such as runways, taxiways, approved airport layout plan. Each airport layout plan, and any change in it, is subject to FAA approval. The Administrator's signature on the face of an original airport layout plan, or of any change in it, indicates FAA approval. The FAA approves an airport layout plan only if the airport development is sound and meets applicable requirements.

(b) *Safe, useful, and usable unit.* Except as provided in paragraph (d) of this section, each advance planning and engineering proposal or airport development project must provide for the planning or development of—

(1) An airport or unit of an airport that is safe, useful, and usable; or

(2) An additional facility that increases the safety, usefulness, or usability of an airport.

(c) *National defense needs.* The needs of national defense are fully considered in administering the Federal-aid Airport Program. However, approval of an advance planning and engineering proposal or a project application is limited to planning or airport development necessary for civil aviation.

(d) *Stage development.* In any case in which airport development can be accomplished more economically under stage construction, federal funds may be programmed in advance for the development over two or more years under two or more grant agreements. In such a case, the FAA makes a tentative allocation of funds for both the current and future fiscal years, rather than allocating the entire federal share in one fiscal year. A grant agreement is made only during the fiscal year in which funds are authorized to be obligated. Advance planning and engineering grants are not made under this paragraph.

(Amdt. 151–8, Eff. 7/23/65)

sponsor owns or controls.

(1) Agreements with the United States to which this requirement of compliance applies include—

(i) Any grant agreement made under the Federal-aid Airport Program;

(ii) Any covenant in a conveyance under section 16 of the Federal Airport Act;

(iii) Any covenant in a conveyance of surplus airport property either under section 13(g) of the Surplus Property Act (50 U.S.C. App. 1622(g)) or under Regulation 16 of the War Assets Administration; and

(iv) Any AP–4 agreement made under the terminated Development Landing Areas National Defense Program and the Development Civil Landing Areas Program.

This requirement does not apply to assurances required under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1) and § 15.7 of the Federal Aviation Regulations (14 CFR 15.7).

(2) If it appears that a sponsor has failed to comply with a requirement of an agreement with the United States with respect to an airport, the FAA notifies him of this fact and affords him an opportunity to submit materials to refute the allegation of noncompliance or to achieve compliance.

(3) If a project is otherwise eligible under the Federal-aid Airport Program, a grant may be made to a sponsor who has not complied with an agreement if the sponsor shows—

(i) That the noncompliance is caused by factors beyond his control; or

(ii) That the following circumstances exist:

(*a*) The noncompliance consisted of a failure, through mistake or ignorance, to perform minor conditions in old agreements with the Federal Government; and

(*b*) The sponsor is taking reasonable action promptly to correct the deficiency or the deficiency relates to an obligation that is no longer required for the safe and efficient use of the airport under existing law and policy.

(b) *Small proposals and projects.* Unless there is otherwise a special need for U.S. participation, whenever possible, the sponsor must consolidate small projects on a single airport in one grant agreement even though the airport development is to be accomplished over a period of years.

(c) *Previously obligated work.* Unless the Administrator specifically authorizes it, no advance planning and engineering proposal or project application may include any planning, engineering, or construction work included in a prior agreement with the United States obligating the sponsor or any other non-U.S. public agency to do the work, and entitling the sponsor or any other non-United States public agency to payment of U.S. funds for all or part of the work.

(Amdt. 151–8, Eff. 7/23/65); (Amdt. 151–17, Eff. 1/27/67); (Amdt. 151–19, Eff. 6/28/67)

§ 151.9 Runway clear zones: General.

(a) Whenever funds are allocated for developing new runways or landing strips, or to improve or repair existing runways, the sponsor must own, acquire, or agree to acquire, runway clear zones. Exceptions are considered (on the basis of a full statement of facts by the sponsor) upon a showing of uneconomical acquisition costs, or lack of necessity for the acquisition.

(b) For the purpose of this part, a runway clear zone is an area at ground level which begins at the end of each primary surface defined in § 77.27(a) and extends with the width of each approach surface defined in § 77.27 (b) and (c), to terminate directly below each approach surface slope at the point, or points, where the slope reaches a height of 50 feet above the elevation of the runway or 50 feet above the terrain at the outer extremity of the clear zone, whichever distance is shorter.

(c) For the purposes of this section, an airport operator or owner is considered to have an adequate property interest if it has an easement (or a covenant running with the land) giving it enough control to rid the clear zone of all obstructions (objects so far as they project above the approach surfaces established by § 77.27 (b) and (c) of Part 77 of this chapter), and to prevent the creation of future

Federal-aid Airport Program, a sponsor must own, acquire, or agree to acquire an adequate property interest in runway clear zone areas as prescribed in paragraph (b), (c), (d), or (e) of this section, as applicable. Property interests that a sponsor acquires to meet the requirements of this section are eligible for inclusion in the Program.

(b) On new airports, the sponsor must own, acquire, or agree to acquire adequate property interests in runway clear zone areas (in connection with initial land acquisition) for all eligible runways or landing strips, without substantial deviation from standard configuration and length.

(c) On existing airports where new runways or landing strips are developed, the sponsor must own, acquire, or agree to acquire adequate property interests in runway clear zone areas for each runway and landing strip to be developed or extended, to the extent that the Administrator determines practical and feasible considering all facts presented by the airport owner or operator, preferably without substantial deviation from standard configuration and length.

(d) On existing airports where improvements are made to runways or landing strips, the sponsor must own, acquire, or agree to acquire adequate property interests in runway clear zone areas for each runway or landing strip that is to be improved to the extent that the Administrator determines is practical and feasible with regard to standard configuration, length, and property interests, considering all facts presented by the airport owner or operator. Any development that improves a specific runway or landing strip is considered to be a runway improvement, including runway lighting and the developing or lighting of taxiways serving a runway.

(e) On existing airports where substantial improvements are made that do not benefit a specific runway or landing strip, such as overall grading or drainage, terminal area or building developments, the sponsor must own, acquire, or agree to acquire adequate property interests in runway clear zone areas for the dominant runway or landing strip to the extent that the Administrator determines is practical and feasible, with regard to standard (e) of this section in place of an adequate property interest (except for rights required for removing existing obstructions). In such a case, there must be an agreement between the FAA and the sponsor for removing or marking or lighting (to be determined in each case) any existing obstruction to air navigation. In each case, the sponsor must furnish information as to the specific height limitations established and as to the current and foreseeable future use of the property to which they apply. The information must include an acceptable legal opinion of the validity of the measures adopted, including a conclusion that the height limitations are not unreasonable in view of current and foreseeable future use of the property, and are a reasonable exercise of the police power, together with the reasons or basis supporting the opinion.

(g) The authority exercised by the Administrator under paragraphs (b), (c), (d), and (e) of this section to allow a deviation from, or the extent of conformity to, standard configuration or length of runway clear zones, or to determine the adequacy of property interests therein, is also exercised by Regional Directors.

(Amdt. 151–22, Eff. 7/43/68); (Amdt. 151–25, Eff. 9/27/68)

§ 151.13 Federal-aid Airport Program: Policy affecting landing aid requirements.

(a) *Landing aid requirements.* No project for developing or improving an airport may be approved for the Program unless it provides for acquiring or installing such of the following landing aids as the Administrator determines are needed for the safe and efficient use of the airport by aircraft, considering the category of the airport and the type and volume of traffic using it:

(1) Land needed for installing approach lighting systems (ALS).

(2) In-runway lighting.

(3) High intensity runway lighting.

(4) Runway distance markers.

For the purposes of this section ''approach lighting system (ALS)'' is a standard configuration of aero-

are required as part of a project if the installing of the components of the system on the airport is in an approved FAA budget, unless the sponsor has already acquired the land necessary for the system or is otherwise undertaking to acquire that land. If the sponsor is otherwise undertaking to acquire the land, the grant agreement for the project must obligate the sponsor to complete the acquisition within a time limit prescribed by the Administrator. The Administrator immediately notifies a sponsor when a budget is approved providing for installing an approach lighting system at the airport concerned.

(2) In-runway lighting is required as part of a project:

(i) If the project includes:

(*a*) Construction of a new runway designated by the FAA as an instrument landing runway for which the installation of an IFR precision approach system including ALS and ILS, has been programed by the FAA with funds then available therefor;

(*b*) An extension of 3,000 feet or more (usable for landing purposes) of the approach end of a designated instrument landing runway equipped, or programed by the FAA, with funds then available therefor, to be equipped, with an IFR precision approach system including ALS and ILS;

(*c*) Reconstruction of a designated instrument landing runway equipped, or programed by the FAA, with funds then available therefor, to be equipped with an IFR precision approach system including ALS and ILS, if the reconstruction requires the closing of the runway; or

(*d*) Any other airport development on an airport whose designated instrument landing runway is equipped, or programed by the FAA, with funds then available therefor, to be equipped with an IFR precision approach system including ALS and ILS; and

(ii) Only if a study of the airport shows that in-runway lighting is required for the safe and efficient use of the airport by aircraft. In the case of projects under paragraph (b)(2)(i)(*d*) of this section, whether installing in-runway lighting requires closing the runway for so long a time that the adverse effect on safety of its closing would outweigh the contribution to safety that would be gained by the in-runway lights or whether it would unduly interfere with the efficiency of aircraft operations.

(3) High intensity runway edge lighting on the designated instrument landing runway is required as a part of a project whenever that runway is equipped or programed for the installation of an ILS and high intensity runway edge lights are not then installed on the runway or included in another project. A project for extending a runway that has high intensity runway edge lights on the existing runway requires, as a part of the project, the extension of the high intensity runway edge lights.

(4) Runway distance markers whose design standards have been approved and published by the FAA are required as a part of a project on a case-by-case basis if, after reviewing the pertinent facts and circumstances of the case, the Administrator determines that they are needed for the safe and efficient use of the airport by aircraft.

(Amdt. 151–3, Eff. 11/26/63); (Amdt. 151–33, Eff. 7/21/69)

§ 151.15 Federal-aid Airport Program: Policy affecting runway or taxiway remarking.

No project for developing or improving an airport may be approved for the Program unless it provides for runway or taxiway remarking if the present marking is obliterated by construction, alteration or repair work included in a FAAP project or by the required routing of construction equipment used therein.

(Amdt. 151–17, Eff. 1/27/67)

(1) The sponsor's written statement as to whether the proposed project involves the displacement and relocation of persons residing on land physically acquired or to be acquired for the project development; and

(2) The sponsor's written assurance, if the project involves displacement and relocation of such persons, that adequate replacement housing will be available or provided for (built, if necessary), without regard to their race, color, religion, sex, or national origin, before the execution of a grant agreement for the project.

(b) A proposed project is selected for inclusion in a program only if the sponsor has submitted a written assurance when required by paragraph (a)(2) of this section, or if the Administrator has determined that the project does not involve the displacement and relocation of persons residing on land to be physically acquired or to be acquired for the project development. If the Administrator selects a proposed project for inclusion in a program, a tentative allocation of funds is made for it and the sponsor is notified of the allocation. The tentative allocation may be withdrawn if the sponsor fails to submit an acceptable project application as provided in paragraph (c) of this section or fails to proceed diligently with the project, or if adequate replacement housing is not available or provided for in accordance with a written assurance when required by paragraph (a)(2) of this section.

(c) As soon as practicable after receiving notice of the tentative allocation, the sponsor must submit a project application on FAA Form 1624 to the Area Manager, without changing the language of the form, unless the change is approved in advance by the Administrator. In the case of a joint project,

6/19/69); (Amdt. 151–39, Eff. 4/3/70)

§ 151.23 Procedures: Application; funding information.

Each sponsor must state in its application that it has on hand, or show that it can obtain as needed, funds to pay all estimated costs of the proposed project that are not borne by the United States or by another sponsor. If any of the funds are to be furnished to a sponsor, or used to pay project costs on behalf of a sponsor, by a State agency or any other public agency that is not a sponsor of the project, that agency may, instead of the sponsor, submit evidence that the funds will be provided if the project is approved.

(Amdt. 151–17, Eff. 1/27/67); (Amdt. 151–34, Eff. 9/7/69)

§ 151.24 Procedures: Application; information on estimated project costs.

(a) If any part of the estimated project costs consists of the value of donated land, labor, materials, or equipment, or of the value of a property interest in land acquired at a cost that (as represented by the sponsor) is not the actual cost or the amount of an award in eminent domain proceedings, the sponsor must so state in the application, indicating the nature of the donation or other transaction and the value it places on it.

(b) If, after the grant agreement is executed and before the final payment of the allowable project costs is made under § 151.63, it appears that the sponsor inadvertently or unknowingly failed to comply with paragraph (a) of this section as to any item, the Administrator—

that stated in the project application.

(Amdt. 151–34, Eff. 9/7/69)

§ 151.25 Procedures: Application; information as to property interests.

(a) Each sponsor must state in its application all of the property interests that he holds in the lands to be developed or used as part of, or in connection with, the airport as it will be when the project is completed. Each project application contains a covenant on the part of the sponsor to acquire, before starting construction work, or within a reasonable time if not needed for the construction, property interests satisfactory to the Administrator in all the lands in which it does not hold those property interests at the time it submits the application. In the case of a joint project, any one or more of the sponsors may hold or acquire the necessary property interests. In such a case, each sponsor may show on its application only those property interests that it holds or is to acquire.

(b) Each sponsor of a project must send with its application a property map (designated as Exhibit A) or incorporate such a map by reference to one in a previous application that was approved. The sponsor must clearly identify on the map all property interests required in paragraph (a) of this section, showing prior and proposed acquisitions for which United States aid is requested under the project.

(c) For the purposes of paragraphs (a) and (b) of this section, the property interest that the sponsor must have or agree to obtain, is—

(1) Title free and clear of any reversionary interest, lien, easement, lease, or other encumbrance that, in the opinion of the Administrator, would create an undue risk that it might deprive the sponsor of possession or control, interfere with its use for public airport purposes, or make it impossible for the sponsor to carry out the agreements and covenants in the application;

(2) A lease of not less than 20 years granted to the sponsor by another public agency that has title as described in paragraph (c)(1) of this section,

(d) For the purposes of this section, the word "land" includes landing areas, building areas, runway clear zones, clearways and approach zones, and areas required for offsite construction, entrance roads, drainage, protection of approaches, installation of air navigation facilities, or other airport purposes.

§ 151.26 Procedures: Applications; compatible land use information; consideration of local community interest; relocation of displaced persons.

(a) Each sponsor must state in its application the action that it has taken to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations including landing and take-off of aircraft. The sponsor's statement must include information on—

(1) Any property interests (such as airspace easements or title to airspace) acquired by the sponsor to assure compatible land use, or to protect or control aerial approaches;

(2) Any zoning laws enacted or in force restricting the use of land adjacent to or in the vicinity of the airport, or assuring protection or control of aerial approaches, whether or not enacted by the sponsor; and

(3) Any action taken by the sponsor to induce the appropriate government authority to enact zoning laws restricting the use of land adjacent to or in the vicinity of the airport, or assuring protection or control of aerial approaches, when the sponsor lacks the power to zone the land.

(b) Each sponsor must submit with his application—

(1) A written statement—

(i) Specifying what consideration has been given to the interest of all communities in or near which the project is located; and

(ii) Containing the substance of any objection to, or approval of, the proposed project made known to the sponsor by any local individual, group or community; and

1/27/67); (Amdt. 151–39, Eff. 4/3/70)

§ 151.27 Procedures: Application, plans, specifications, and appraisals.

(a) Except as provided in paragraph (b) of this section, each sponsor shall incorporate by reference in its project application the final plans and specifications, describing the items of airport development for which it requests United States aid. It must submit the plans and specifications with the application unless they were previously submitted or are submitted with that of another sponsor of the project.

(b) In special cases, the Administrator authorizes the postponement of the submission of final plans and specifications until a later date to be specified in the grant agreement, if the sponsor has submitted—

(1) An airport layout plan approved by the Administrator; and

(2) Preliminary plans and specifications in enough detail to identify all items of development included in the project, and prepared so as to provide for accomplishing the project in accordance with the master plan layout, the rules in Subparts B and C and applicable local laws and regulations.

(c) If the project involves acquiring a property interest in land by donation, or at a cost that (as represented by the sponsor) is not the actual cost or the amount of an award in eminent domain proceedings, the Administrator, before passing on the eligibility of the project makes or obtains an appraisal of the interest. If the appraised value is less than the value placed on the interest by the sponsor (§ 151.23), the Administrator notifies the sponsor that he may within a stated time, ask in writing for reconsideration of the appraisal and submit statements of pertinent facts and opinion.

(Amdt. 151–8, Eff. 7/23/65); (Amdt. 151–17, Eff. 1/27/67)

(b) If, before the sponsor accepts the offer, it is determined that the maximum obligation of the United States stated in the offer is not enough to pay the United States share of the allowable project costs, the sponsor may request an increase in the amount in the offer, through the Area Manager.

(c) An official of the sponsor must accept the offer for the sponsor within the time prescribed in the offer, and in the required number of counterparts, by signing it in the space provided. The signing official must have been authorized to sign the acceptance by a resolution or ordinance adopted by the sponsor's governing body. The resolution or ordinance must, as appropriate under the local law—

(1) Set forth the terms of the offer at length; or

(2) Have a copy of the offer attached to the resolution or ordinance and incorporated into it by reference.

The sponsor must attach a certified copy of the resolution to each executed copy of an accepted offer or grant agreement that it is required to send to the Area Manager.

(Amdt. 151–11, Eff. 5/19/66)

§ 151.31 Procedures: Grant agreement.

(a) An offer by the Administrator, and acceptance by the sponsor, as set forth in § 151.29, constitute a grant agreement between the sponsor and the United States. Except as provided in § 151.41(c)(3), the United States does not pay, and is not obligated to pay, any part of the project costs that have been or may be incurred, before the grant agreement is executed.

(b) The Administrator and the sponsor may agree to a change in a grant agreement if—

(1) The change does not increase the maximum obligation of the United States under the grant agreement by more than 10 percent;

§ 151.29(c).

(Amdt. 151–8, Eff. 7/23/65)

§ 151.33 Cosponsorship and agency.

Any two or more public agencies that desire to participate either in accomplishing development under a project or in maintaining or operating the airport, may cosponsor it if they meet the requirements of Subparts B and C, including—

(1) The eligibility requirements of § 151.37; and

(2) The submission of a single project application, executed by each sponsor, clearly stating the certifications, representations, warranties, and obligations made or assumed by each, or a separate application by each that does not meet all the requirements of Subparts B and C if in the Administrator's opinion, the applications collectively meet the requirements of Subparts B and C as applied to a project with a single sponsor.

(b) A public agency that desires to participate in a project only by contributing funds to a sponsor need not become a sponsor or an agent of the sponsor, as provided in this section. However, any funds that it contributes are considered as funds of the sponsor for the purposes of the Federal Airport Act and this part.

(c) If the sponsors of a joint project are not each willing to assume, jointly and severally, the obligations that Subparts B and C requires a sponsor to assume, they must send a true copy of an agreement between them, satisfactory to the Administrator, to be incorporated into the grant agreement. Each agreement must state—

(1) The responsibilities of each sponsor to the others with respect to accomplishing the proposed development and operating and maintaining the airport;

(2) The obligations that each will assume to the United States; and

(3) The name of the sponsor or sponsors who will accept, receipt for, and disburse grant payments.

If an offer is made to the sponsors of a joint project, as provided in § 151.29, it contains a spe- participating financially and without becoming a sponsor. The terms and conditions of the agency and the agent's authority to act for the sponsor must be set forth in an agency agreement that is satisfactory to the Administrator. The sponsor must submit a true copy of the agreement with the project application. Such an agent may accept, on behalf of the sponsor, an offer made under § 151.29, only if that acceptance has been specifically and legally authorized by the sponsor's governing body and the authority is specifically set forth in the agency agreement.

(e) When the cosponsors of an airport are not located in the same area, they must submit a joint request to the Area Manager of the area in which the airport development will be located.

(Admt. 151–8, Eff. 7/23/65); (Admt. 151–11 Eff. 5/19/66)

§ 151.35 Airport development and facilities to which Subparts B and C apply.

(a) Subparts B and C applies to the following kinds of airport development:

(1) Any work involved in constructing, improving, or repairing a public airport or part thereof, including the constructing, altering, or repairing of only those buildings or parts thereof that are intended to house facilities or activities directly related to the safety of persons at the airport.

(2) Removing, lowering, relocating, marking, and lighting of airport hazards as defined in § 151.39(b).

(3) Acquiring land or an interest therein, or any easement through or other interest in air space, that is necessary to allow any work covered by paragraph (a)(1) or (2) of this section, or to remove or mitigate, or prevent or limit the establishment of, airport hazards as defined in § 151.39(b).

It does not apply to the constructing, altering, or repair of airport hangars or public parking facilities for passenger automobiles.

(b) The airport facilities to which Subparts B and C applies are those structures, runways, or other items, on or at an airport, that are—

facilities.

(c) For the purposes of Subparts B and C, "public airport" means an airport used for public purposes, under the control of a public agency named in § 151.37(a), with a publicly owned landing area.

(Admt. 151–8, Eff. 7/23/65)

§ 151.37 Sponsor eligibility.

To be eligible to apply for an individual or joint project for development with respect to a particular airport a sponsor must—

(a) Be a public agency, which includes for the purposes of this part only, a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam or an agency of any of them; a municipality or other political subdivision; a tax-supported organization; or the United States or an agency thereof;

(b) Be legally, financially, and otherwise able to—

(1) Make the certifications, representations, and warranties in the application form prescribed in § 151.67(a);

(2) Make, keep, and perform the assurances, agreements, and covenants in that form; and

(3) Meet the other applicable requirements of the Federal Airport Act and Subparts B and C;

(c) Have, or be able to obtain, enough funds to meet the requirements of § 151.23; and

(d) Have, or be able to obtain, property interests that meet the requirements of § 151.25(a).

For the purpose of paragraph (a) of this section, the United States, or an agency thereof, is not eligible for a project under Subparts B and C, unless the project—

(1) Is located in Puerto Rico, the Virgin Islands, or Guam;

(2) Is in or is in close proximity to a national park, a national recreation area, or a national monument; or

(3) Is in a national forest or a special reservation for United States purposes.

(Admt. 151–8, Eff. 7/23/65)

(3) The airport development is, in the opinion of the Administrator, reasonably necessary to provide a needed civil airport facility;

(4) The Administrator is satisfied that the project is reasonably consistent with existing plans of public agencies for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of the Federal-aid Airport Program;

(5) The Administrator is satisfied, after considering the pertinent information including the sponsor's statements required by § 151.26(b), that—

(i) Fair consideration has been given to the interest of all communities in or near which the project is located; and

(ii) Adequate replacement housing that is open to all persons, regardless of race, color, religion, sex, or national origin, is available and has been offered on the same nondiscriminatory basis to persons who have resided on land physically acquired or to be acquired for the project development and have been or will be displaced thereby;

(6) The project provides for installing such of the landing aids specified in section 10(d) of the Federal Airport Act (49 U.S.C. 1109(d)) as the Administrator considers are needed for the safe and efficient use of the airport by aircraft, based on the category of the airport and the type and volume of its traffic.

(b) Only the following kinds of airport development described in § 151.35(a) are eligible to be included in a project under Subparts B and C:

(1) Preparing all or part of an airport site, including clearing, grubbing filling and grading.

(2) Dredging of seaplane anchorages and channels.

(3) Drainage work, on or off the airport or airport site.

(4) Constructing, altering, or repairing airport buildings or parts thereof to the extent that it is covered by § 151.35(a).

(5) Constructing, altering, or repairing runways, taxiways, and aprons, including—

(i) Bituminous resurfacing of pavements with a minimum of 100 pounds of plant-mixed material for each square yard;

of an airport or airport site.

(7) Installing, altering, or repairing airport markers and runway, taxiway and apron lighting facilities and equipment.

(8) Constructing, altering, or repairing entrance roads and airport service roads.

(9) Constructing, installing, or connecting utilities, either on or off the airport or airport site.

(10) Removing, lowering, relocating marking, or lighting any airport hazard.

(11) Clearing, grading, and filling to allow the installing of landing aids.

(12) Relocating structures, roads, and utilities necessary to allow eligible airport development.

(13) Acquiring land or an interest therein, or any easement through or other interest in airspace, when necessary to—

(i) Allow other airport development to be made, whether or not a part of the Federal-aid Airport Program;

(ii) Prevent or limit the establishment of airport hazards;

(iii) Allow the removal, lowering, relocation, marking, and lighting of existing airport hazards;

(iv) Allow the installing of landing aids; or

(v) Allow the proper use, operation, maintenance, and management of the airport as a public facility.

(14) Any other airport development described in § 151.35(a) that is specifically approved by the Administrator.

For the purposes of paragraph (b)(10) of this section, an airport hazard is any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land in the vicinity of the airport, that obstructs the airspace needed for the landing or takeoff of aircraft or is otherwise hazardous to the landing or takeoff of aircraft. For the purposes of paragraph (b)(13) of this section, land acquisition includes the acquiring of land that is already developed as a private airport and the structures, fixtures, and improvements that are a part of realty (other than hangars, other ineligible structures and parts thereof, fixtures, and improvements).

1/27/67); (Admt. 151–37, Eff. 1/26/70); (Admt. 151–39, Eff. 4/3/70)

§ 151.41 Project costs.

(a) For the purposes of Subparts B and C, project costs consist of any costs involved in accomplishing a project, including those of—

(1) Making field surveys;

(2) Preparing plans and specifications;

(3) Accomplishing or procuring the accomplishing of the work;

(4) Supervising and inspecting construction work;

(5) Acquiring land, or an interest therein, or any casement through or other interest in airspace; and

(6) Administrative and other incidental costs incurred specifically in connection with accomplishing a project, and that would not have otherwise been incurred.

(b) The costs described in paragraph (a) of this section, including the value of land, labor, materials, and equipment donated or loaned to the sponsor and appropriated to the project by the sponsor, are eligible for consideration as to their allowability, except for—

(1) That part of the cost of rehabilitation or repair for which funds have been appropriated under section 17 of the Federal Airport Act (49 U.S.C. 1116);

(2) That part of the cost of acquiring an existing private airport that represents the cost of acquiring passenger automobile parking facilities, buildings to be used as hangars, living quarters, or for nonairport purposes, at the airport, and those buildings or parts of buildings the construction of which is not airport development within the meaning of § 151.35(a);

(3) The cost of materials and supplies owned by the sponsor or furnished from a source of supply owned by the sponsor if—

(i) Those materials and supplies were used for airport development before the grant agreement was executed; or

(ii) The cost is not supported by proper evidence of quantity and value;

(6) The value of any land, including improvements, donated to the sponsor by another public agency; and

(7) Any costs incurred in connection with raising funds by the sponsor, including interest and premium charges and administrative expenses involved in conducting bond elections and in the sale of bonds.

(c) To be an allowable project cost, for the purposes of computing the amount of a grant, an item that is paid or incurred must, in the opinion of the Administrator—

(1) Have been necessary to accomplish airport development in conformity with the approved plans and specifications for an approved project and with the terms of the grant agreement for the project;

(2) Be reasonable in amount (or be subject to partial disallowance under section 13(a)(3) of the Federal Airport Act (49 U.S.C. 1112(a)(3));

(3) Have been incurred after the date the grant agreement was executed, except that costs of land acquisition, field surveys, planning, preparing plans and specifications, and administrative and incidental costs, may be allowed even though they were incurred before that date, if they were incurred after May 13, 1946; and

(4) Be supported by satisfactory evidence.

(Admt. 151–8, Eff. 7/23/65); (Admt. 151–14, Eff. 10/8/66)

§ 151.43 United States share of project costs.

(a) The United States share of the allowable costs of a project is stated in the grant agreement for the project, to be paid from appropriations made under the Federal Airport Act.

(b) Except as provided in paragraphs (c) and (d) of this section and in Subpart C of this part, the United States share of the costs of an approved project for airport development (regardless of its size or location) is 50 percent of the allowable costs of the project.

(c) The U.S. share of the costs of an approved project for airport development in a State in which the unappropriated and unreserved public lands and

Colorado	52.98
Idaho	55.80
Montana	52.99
Nevada	62.50
New Mexico	56.14
Oregon	55.64
South Dakota	52.53
Utah	60.65
Washington	51.53
Wyoming	56.33

(d) The United States share of the costs of an approved project, representing the costs of any of the following, is 75 percent:

(1) The costs of installing high intensity runway edge lighting on a designated instrument landing runway or other runway with an approved straight-in approach procedure.

(2) The costs of installing in-runway lighting (touchdown zone lighting system, and centerline lighting system).

(3) The costs of installing runway distance markers.

(4) The costs of acquiring land, or a suitable property interest in land or in or over water, needed for installing operating, and maintaining an ALS (as described in § 151.13).

(5) The costs of any project in the Virgin Islands.

(Admt. 151–2, Eff. 11/19/63); (Admt. 151–10, Eff. 11/30/65); (Admt. 151–16, Eff. 12/14/66); (Admt. 151–17, Eff. 1/27/67); (Admt. 151–20, Eff. 12/6/67); (Admt. 151–27, Eff. 1/4/69); (Admt. 151–35, Eff. 9/26/69); (Admt. 151–36, Eff. 12/10/69)

§ 151.45 Performance or construction work: General requirements.

(a) All construction work under a project must be performed under contract, except in a case where the Administrator determines that the project, or a part of it, can be more effectively and economically accomplished on a force account basis by the sponsor or by another public agency acting for or as agent of the sponsor.

(b) Each contract under a project must meet the requirements of local law.

(c) No sponsor may issue any change order under any of its construction contracts or enter into a

ties, for installing, extending, changing, removing, or relocating that structure or facility. However, the sponsor must obtain the approval of the Area Manager before entering into such a contract.

(e) No sponsor may allow a contractor or subcontractor to begin work under a project until—

(1) The sponsor has furnished three conformed copies of the contract to the Area Manager; and

(2) The Area Manager agrees to the issuance of a notice to proceed with the work to the contractor. However, the Area Manager does not agree to the issuance of such a notice unless he is satisfied that adequate replacement housing is available and has been offered to affected persons, as required for project eligibility by § 151.39(a)(5).

(f) Except when the Area Manager determines that the sponsor has previously demonstrated satisfactory engineering and construction supervision and inspection, no sponsor may allow a contractor or subcontractor to begin work, nor may the sponsor begin force account work, until the sponsor has notified the Area Manager in writing that engineering and construction supervision and inspection have been arranged to insure that construction will conform to FAA approved plans and specifications, and that the sponsor has caused a review to be made of the qualifications of personnel who will be performing such supervision and inspection and is satisfied that they are qualified to do so.

(Admt. 151–11, Eff. 5/9/66); (Admt. 151–31, Eff. 4/20/69); (Admt. 151–39, Eff. 4/3/70)

§ 151.47 Performance of construction work: Letting of contracts.

(a) *Advertising required; exceptions.* Unless the Administrator approves another method for use on a particular airport development project, each contract for construction work on a project in the amount of more than $2,000 must be awarded on the basis of public advertising and open competitive bidding under the local law applicable to the letting of public contracts. Any oral or written agreement or understanding between a sponsor and another public agency that is not a sponsor of the project, advertisement shall inform the bidders of the contract and reporting provisions required by § 151.54. Unless the estimated contract price or construction cost is $2,000 or less, there may be no advertisement for bids or negotiation until the Administrator has given the sponsor a copy of a decision of the Secretary of Labor establishing the minimum wage rates for skilled and unskilled labor under the proposed contract. In each case, a copy of the wage determination decision must be set forth in the initial invitation for bids or proposed contract or incorporated therein by reference to a copy set forth in the advertised or negotiated specifications.

(c) *Procedure for the Secretary of Labor's wage determinations.* At least 60 days before the intended date of advertising or negotiating under paragraph (b) of this section, the sponsor shall send to the Area Manager, completed Department of Labor Form DB–11, with only the classifications needed in the performance of the work checked. General entries (such as "entire schedule" or "all applicable classifications") may not be used. Additional necessary classifications not on the form may be typed in the blank spaces or on an attached separate list. A classification that can be fitted into classifications on the form, or a classification that is not generally recognized in the area or in the industry, may not be used. Except in areas where the wage patterns are clearly established, the Form must be accompanied by any available pertinent wage payment or locally prevailing fringe benefit information.

(d) *Use and effectiveness of the Secretary of Labor's wage determinations.* (1) Wage determinations are effective only for 120 days from the date of the determinations. If it appears that a determination may expire between bid opening and award, the sponsor shall so advise the FAA as soon as possible. If he wishes a new request for wage determination to be made and if any pertinent circumstances have changed, he shall submit a new Form DB–11 and accompanying information. If he claims that the determination expires before award and after bid opening due to unavoidable circumstances, he shall submit proof of the facts which he claims support a finding to that effect.

determination to which it relates. The Administrator sends any modification to the sponsor as soon as possible. If the modification is effective, it must be incorporated in the invitation for bids, by issuing an addendum to the specifications or otherwise.

(e) *Requirements for awarding construction contracts.* A sponsor may not award a construction contract without the written concurrence of the Administrator (through the Area Manager) that the contract prices are reasonable and that the contract conforms to the sponsor's grant agreement with the United States. A sponsor that awards contracts on the basis of public advertising and open competitive bidding, shall, after the bids are opened, send a tabulation of the bids and its recommendations for award to the Area Manager. The allowable project costs of the work, on which the Federal participation is computed, may not be more than the bid of the lowest responsible bidder. The sponsor may not accept a bid by a contractor whose name appears on the current list of ineligible contractors published by the Comptroller General of the United States under § 5.6(b) of Title 29 of the regulations of the Secretary of Labor (29 CFR Part 5), or a bid by any firm, corporation, partnership, or association in which that contractor has a substantial interest.

(f) *Secretary of Labor's interpretations apply.* Where applicable by their terms, the regulations of the Secretary of Labor (29 CFR 5.20–5.32) interpreting the fringe benefit provisions of the Davis-Bacon Act apply to this section.

(Admt. 151–4, Eff. 9/7/64); (Admt. 151–5, Eff. 12/21/64); (Admt. 151–6, Eff. 1/18/65); (Admt. 151–11, Eff. 5/19/66)

§ 151.49 Performance of construction work: Contract requirements.

(a) *Contract provisions.* In addition to any other provisions necessary to ensure completion of the work in accordance with the grant agreement, each sponsor entering into a construction contract for an airport development project shall insert in the contract the provisions required by the Secretary and accomplished by the [insert sponsor's name] in accordance with the terms and conditions of a grant agreement between the [insert sponsor's name] and the United States, under the Federal Airport Act (49 U.S.C. 1101) and Part 151 of the Federal Aviation Regulations (14 CFR Part 151), pursuant to which the United States has agreed to pay a certain percentage of the costs of the project that are determined to be allowable project costs under that Act. The United States is not a party to this contract and no reference in this contract to the FAA or any representative thereof, or to any rights granted to the FAA or any representative thereof, or the United States, by the contract, makes the United States a party to this contract.

(2) *Consent to assignment.* The contractor shall obtain the prior written consent of the [insert sponsor's name] to any proposed assignment of any interest in or part of this contract.

(3) *Convict labor.* No convict labor may be employed under this contract.

(4) *Veterans' preference.* In the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to qualified individuals who have served in the military service of the United States (as defined in section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940) and have been honorably discharged from that service, except that preference may be given only where that labor is available locally and is qualified to perform the work to which the employment relates.

(5) *Withholding: Sponsor from contractor.* Whether or not payments or advances to the [insert sponsor's name] are withheld or suspended by the FAA, the [insert sponsor's name] may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the contractor or any subcontractor on the work the full amount of wages required by this contract.

(6) *Nonpayment of wages.* If the contractor or subcontractor fails to pay any laborer or mechanic employed or working on the site of the work any

(8) *Subcontracts.* The contractor shall insert in each of his subcontracts the provisions contained in paragraphs [insert designations of 6 paragraphs of contract corresponding to paragraphs (1), (3), (4), (5), (6) and (7) of this paragraph], and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(9) *Contract termination.* A breach of paragraphs [insert designation of 3 paragraphs corresponding to paragraphs (6), (7) and (8) of this paragraph] may be grounds for termination of the contract.

(b) *Exemption of certain contracts.* Appendix H to this part and paragraph (a)(5) of this section do not apply to prime contracts of $2,000 or less.

(c) *Adjustment in liquidated damages.* A contractor or subcontractor who has become liable for liquidated damages under paragraph G of Appendix H and who claims that the amount administratively determined as liquidated damages under section 104(a) of the Contract Work Hours Standards Act is incorrect or that he violated inadvertently the Contract Work Hours Standards Act notwithstanding the exercise of due care, may—

(1) If the amount determined is more than $100, apply to the Administrator for a recommendation to the Secretary of Labor that an appropriate adjustment be made or that he be relieved of liability for such liquidated damages; or

(2) If the amount determined is $100 or less, apply to the Administrator for an appropriate adjustment in liquidated damages or for release from liability for the liquidated damages.

(d) *Corrected wage determinations.* The Secretary of Labor corrects any wage determination included in any contract under this section whenever the wage determination contains clerical errors. A correction may be made at the Administrator's request or on the initiative of the Secretary of Labor.

(e) *Secretary of Labor's interpretations apply.* Where applicable by their terms, the regulations of the Secretary of Labor (29 CFR 5.20–5.32) inter-

(a) Before undertaking any force account construction work, the sponsor (or any public agency acting as agent for the sponsor) must obtain the written consent of the Administrator through the Area Manager. In requesting that consent, the sponsor must submit—

(1) Adequate plans and specifications showing the nature and extent of the construction work to be performed under that force account;

(2) A schedule of the proposed construction and of the construction equipment that will be available for the project;

(3) Assurance that adequate labor, material, equipment, engineering personnel, as well as supervisory and inspection personnel as required by § 151.45(f), will be provided; and

(4) A detailed estimate of the cost of the work, broken down for each class of costs involved, such as labor, materials, rental of equipment, and other pertinent items of cost.

(Admt. 151–11, Eff. 5/19/66); (Admt. 151–17, Eff. 1/27/67); (Admt. 151–31, Eff. 4/20/69)

§ 151.53 Performance of construction work: Labor requirements.

A sponsor who is required to include in a construction contract the labor provisions required by § 151.49 shall require the contractor to comply with those provisions and shall cooperate with the FAA in effecting that compliance. For this purpose the sponsor shall—

(a) Keep, and preserve, for a three-year period beginning on the date the contract is completed, each affidavit and payroll copy furnished by the contractor, and make those affidavits and copies available to the FAA, upon request, during that period;

(b) Have each of those affidavits and payrolls examined by its resident engineer (or any other of its employees or agents who are qualified to make the necessary determinations), as soon as possible after receiving it, to the extent necessary to determine whether the contractor is complying with the labor provisions required by § 151.49 and

sor's resident engineer (or any other of its employees or agents who are qualified to make the necessary determinations); and

(d) Keep the Area Manager fully advised of all examinations and investigations made under this section, all determinations made on the basis of those examinations and investigations, and all efforts made to obtain compliance with the labor provisions of the contract.

For the purposes of paragraph (c) of this section, the sponsor shall give priority to complaints of alleged violations, and shall treat as confidential any written or oral statements made by any employee. The sponsor may not disclose an employee's statement to a contractor without the employee's consent.

(Admt. 151–11, Eff. 5/19/66)

§ 151.54 Equal employment opportunity requirements: Before July 1, 1968.

In conformity with Executive Order 11246 of September 24, 1965 (30 FR 12319, 3 CFR, 1965 Supp., p. 167) the regulations of the former President's Committee on Equal Employment Opportunity, 41 CFR Part 60–1 (28 FR 9812, 11305), as adopted "to the extent not inconsistent with Executive Order 11246" by the Secretary of Labor ("Transfer of Functions," Oct. 19, 1965, 30 FR 13441), are incorporated by reference into Subparts B and C of this part as set forth below. They are referred to in this section by section numbers of Part 60–1 of Title 41.

(a) *Equal employment opportunity requirements.* There are hereby incorporated by reference into Subparts B and C, as requirements, the provisions of § 60–1.3(b)(1). The FAA is primarily responsible for the sponsor's compliance.

(b) *Equal employment opportunity requirements in construction contracts.* The sponsor shall cause the "equal opportunity clause" in § 60–1.3(b)(1) to be incorporated into all prime contracts and subcontracts as required by § 60–1.3(c).

(c) *Reporting requirements for contractors and subcontractors.* The sponsor shall cause the filing

Each bidder, prospective contractor or proposed subcontractor shall state as an initial part of the bid or negotiations of the contract whether he has participated in any previous contract or subcontract subject to the equal opportunity clause and, if so, whether he has filed with the Office of Federal Contract Compliance in the United States Department of Labor or the contracting or administering agency all compliance reports due under applicable instructions. In any case in which a bidder or prospective contractor or proposed subcontractor who has participated in a previous contract or subcontract subject to the equal opportunity clause has not filed a compliance report due under applicable instructions, such bidder, prospective contractor or proposed subcontractors shall submit a compliance report prior to the award of the proposed contract or subcontract. When a determination has been made to award a contract to a specific contractor, such contractor shall, prior to award, furnish such other pertinent information regarding his own employment policies and practices as well as those of his proposed subcontractors as the FAA, the sponsor, or the Director of the Office of Federal Contract compliance may require.

(2) The sponsor or his contractors shall give express notice of the requirements of this paragraph (d) in all invitations for bids or negotiations for contracts.

(e) *Enforcement.* The FAA conducts compliance reviews, handles complaints and, where appropriate, conducts hearings and imposes, or recommends to the Office of Federal Contract Compliance, sanctions, as provided in Subpart B—General Enforcement; Complaint Procedure of Part 60–1.

(f) *Exempted contracts.* Except for subcontracts for the performance of construction work at the site of construction, the requirements of this section do not apply to subcontracts below the second tier (§ 60–1.3(c)). The requirements of this section do not apply to contracts and subcontracts exempted by § 60–1.4.

(g) *Meaning of terms.* The term "applicant" in the provisions of Part 60–1 incorporated by ref-

with a grant agreement to which this section applies.

(Admt. 151–50, Eff. 12/21/64); (Admt. 151–6, Eff. 1/18/65); (Admt. 151–8, Eff. 7/23/65); (Admt. 151–12, Eff. 7/26/66); (Admt. 151–23, Eff. 7/1/68)

§ 151.54a Equal employment opportunity requirements: After June 30, 1968.

(a) *Incorporation by reference.* There are hereby incorporated by reference into this part the regulations issued by the Secretary of Labor on May 21, 1968, and published in the FEDERAL REGISTER on May 28, 1968 (41 CFR Part 60–1, 33 FR 7804), except for the following provisions:

(1) Paragraph (a), ''Government contracts'', of § 60–1.4, ''Equal opportunity clause''.

(2) Section 60–1.6, ''Duties of agencies''.

(b) *Applicability and effectiveness.* The regulations incorporated by reference in paragraph (a) of this section apply to grant agreements made after June 30, 1968. They also apply to contracts, as defined in § 60–1.3(f) of Title 41, entered into under any grant agreement made before or after that date, as provided in § 60–1.47 of Title 41.

(Amdt. 151–54a, Eff. 7/1/68)

§ 151.55 Accounting and audit.

(a) Each sponsor shall establish and maintain, for each individual project, an adequate accounting record to allow appropriate personnel of the FAA to determine all funds received (including funds of the sponsor and funds received from the United States or other sources), and to determine the allowability of all incurred costs of the project. The sponsor shall segregate and group project costs so that it can furnish, on due notice, cost information in the following cost classifications:

(1) Purchase price or value of land.

(2) Incidental costs of land acquisition.

(3) Costs of contract construction.

(4) Costs of force account construction.

(5) Engineering costs of plans and designs.

evidence of all payments for items of project costs including vouchers, cancelled checks or warrants, and receipts for cash payments.

(d) The sponsor shall allow the Administrator and the Comptroller General of the United States, or an authorized representative of either of them, access to any of its books, documents, papers, and records that are pertinent to grants received under the Federal-aid Airport Program for the purposes of accounting and audit. Appropriate FAA personnel may make progress audits at any time during the project, upon notice to the sponsor. If work is suspended on the project for an appreciable period of time, an audit will be made before any semi-final payment is made. In each case an audit is made before the final payment.

(Amdt. 151–8, Eff. 7/23/65)

§ 151.57 Grant payments: General.

(a) An application for a grant payment is made on FAA Form 5100–6, accompanied by—

(1) A summary of project costs on Form FAA–1630;

(2) A periodic cost estimate on Form FAA–1629 for each contract representing costs for which payment is requested; and

(3) Any supporting information, including appraisals of property interests, that the FAA needs to determine the allowability of any costs for which payment is requested.

(b) Contractor's certifications. Each application that involves work performed by a contractor must contain, in the contractor's certification in the periodic cost estimate, a statement that ''there has been full compliance with all labor provisions included in the contract identified above and in all subcontracts made under that contract'', and, in the case of a substantial dispute as to the nature of the contractor's or a subcontractor's obligation under the labor provisions of the contract or a subcontract, and additional phrase ''except insofar as a substantial dispute exists with respect to these provisions''.

(d) If, upon final determination of the allowability of all project costs of a project, it is found that the total of grant payments to the sponsor was more than the total United States share of the allowable costs of the project, the sponsor shall promptly return the excess to the FAA.

(Amdt. 151–4, Eff. 9/7/64); (Amdt. 151–8, Eff. 7/23/65); (Amdt. 151–17, Eff. 1/27/67); (Amdt. 151–32, Eff. 6/19/69)

§ 151.59 Grant payments: Land acquisition.

If an approved project includes land acquisition as an item of airport development, the sponsor may, at any time after executing the grant agreement and after title evidence has been approved by the Administrator for the property interest for which payment is requested, apply to the FAA, through the Area Manager, for payment of the United States share of the allowable project costs of the acquisition, including any acquisition that is completed before executing the grant agreement and is part of the airport development included in the project.

(Amdt. 151–11, Eff. 5/19/66)

§ 151.61 Grant payments: Partial.

(a) Subject to the final determination of allowable project costs as provided in § 151.63 partial grant payments for project costs may be made to a sponsor upon application. Unless previously agreed otherwise, a sponsor may apply for partial payments on a monthly basis. The payments may be paid, upon application, on the basis of the costs of airport development that is accomplished or on the basis of the estimated cost of airport development expected to be accomplished.

(b) Except as otherwise provided, partial grant payments are made in amounts large enough to bring the aggregate amount of all partial payments to the estimated United States share of the project costs of the airport development accomplished under the project as of the date of the sponsor's latest application for payment. In addition, if the sponsor applies, a partial grant payment is made more than 90 percent of the estimated United States share of the total estimated cost of all airport development included in the project, but not including contingency items, or 90 percent of the maximum obligation of the United States as stated in the grant agreement, whichever amount is the lower. In determining the amount of a partial grant payment, those project costs that the Administrator considers to be of questionable allowability are deducted both from the amount of proj- ect costs incurred and from the amount of the estimated total project cost.

§ 151.63 Grant payments: Semifinal and final.

(a) Whenever airport development on a project is delayed or suspended for an appreciable period of time for reasons beyond the sponsor's control and the allowability of the project costs of all airport development completed has been determined on the basis of an audit and review of all costs, a semifinal grant payment may be made in an amount large enough to bring the aggregate amount of all partial grant payments for the project to the United States share of all allowable project costs incurred, even if the amount is more than the 90 percent limitation prescribed in § 151.61(b). However, it may not be more than the maximum obligation of the United States as stated in the grant agreement.

(b) Whenever the project is completed in accordance with the grant agreement, the sponsor may apply for final payment. The final payment is made to the sponsor if—

(1) A final inspection of all work at the airport site has been made jointly by the Area Manager and representatives of the sponsor and the contractor, unless the Area Manager agrees to a different procedure for final inspection.

(2) A final audit of the project account has been completed by appropriate personnel of the FAA; and

(3) The sponsor has furnished final "as constructed" plans, unless otherwise agreed to by the Administrator.

§ 151.65 Memoranda and hearings.

(a) At any time before the FAA issues a grant offer for a project, any public agency or person having a substantial interest in the disposition of the project application may file a memorandum supporting or opposing it with the Area Manager of the area in which the project is located. In addition, that public agency or person may request a public hearing on the location of the airport to be developed. If, in the Administrator's opinion, that public agency or person has a substantial interest in the matter, a public hearing is held.

(b) The Administrator sets the time and place of each hearing under this section, to avoid undue delay in disposing of the application, to afford reasonable time for all parties concerned to prepare for it, and to hold it at a place convenient to the sponsor. Notice of the time and place is mailed to the public agency or person filing the memorandum, the sponsor, and any other necessary persons.

(c) The purpose of the hearing is to help the Administrator discover facts relating to the location of the airport that is proposed to be developed under an application pending before him. There are no adverse parties or interests and no defendant or respondent. They are not hearings for the purposes of 5 U.S.C. 554, 556, and 557, and do not terminate in an adjudication as defined in that Act.

(d) Each hearing under this section is conducted by a hearing officer designated by the Administrator. The hearing officer decides the length of the hearing, the kind of testimony to be heard, and all other matters respecting the conduct of the hearing. The hearing is recorded in a manner determined by the hearing officer and the record becomes a part of the record of the project application. The Administrator's decision is not made solely on the basis of the hearing, but on all relevants facts.

(Amdt. 151–11, Eff. 5/19/66); (Amdt. 151–35, Eff. 9/26/69)

available to the sponsor, a description of the proposed work, and its estimated cost.

(2) Project application, Form FAA–1624: A formal application for Federal-aid to carry out a project under this part. It contains four parts:

(i) Part I—For pertinent information regarding the airport and proposed work included in the project.

(ii) Part II—For incorporating the representations of the sponsor relating to its legal authority to undertake the project, the availability of funds for its share of the project costs, approvals of other non-United States agencies, the existence of any default on the compliance requirements of § 151.77(a), possible disabilities, and the ownership of lands and interests in lands to be used in carrying out the project and operating the airport.

(iii) Part III—For incorporating the sponsor's assurances regarding the operation and maintenance of the airport, further development of the airport, and the acquisition of any additional interests in lands that may be needed to carry out the project or for operating the airport.

(iv) Part IV—For a statement of the sponsor's acceptance, to be executed by the sponsor and certificated by its attorney.

(3) [Reserved]

(4) Grant agreement, Form FAA–1632:

(i) Part I—Offer by the United States to pay a specified percentage of the allowable costs of the project, as described therein, on specified terms relating to the undertaking and carrying out of the project, determination of allowability of costs, payment of the United States share, and operation and maintenance of the airport in accordance with assurances in the project application.

(ii) Part II—Acceptance of the offer by the sponsor, execution of the acceptance by the sponsor, and certification by its attorney.

(5) Periodic cost estimate, Form FAA–1629: a certification to be executed by the contractor, with space for information regarding the progress of

and the Area Manager.

(7) Summary of project costs, Form FAA–1630: For inserting the latest revised estimate of total

151–25, Eff. 9/7/69); (Amdt. 151–34, 9/7/69)

that apply to any particular project are those in effect on the date the sponsor accepts the Administrator's offer under § 151.29(c). The standards of § 151.72(a) applicable to a project are those in effect on the date written on the notification of tentative allocation of funds (§ 151.21(b)). Standards that become effective after that date may be applied to the project by agreement between the sponsor and the Administrator.

(Amdt. 151–19, Eff. 6/28/67)

§ 151.72 Incorporation by reference of technical guidelines in Advisory Circulars.

(a) *Provisions incorporated; mandatory standards.* The technical guidelines in the Advisory Circulars, or parts of Circulars, listed in Appendix I of this part, are incorporated into this subpart by reference. Guidelines so incorporated are mandatory standards and apply in addition to the other standards in this subpart. No provision so incorporated and made mandatory supersedes any provision of this Part 151 (other than of App. I) or of any other part of the Federal Aviation Regulations. Each Circular is incorporated with all amendments outstanding at any time unless the entry in Appendix I of this part states otherwise.

(b) *Amendments of Appendix I.* The Director, Airports Service, may add to, or delete from, Appendix I of this part any Advisory Circular or part thereof.

(c) *Availability of Advisory Circulars.* The Advisory Circulars listed in Appendix I of this part may be inspected and copied at any FAA Regional Office, Area Office, or Airports District Office. Copies of the Circulars that are available free of charge may be obtained from any of the offices or from the Federal Aviation Administration, Print-

(a) The acquisition of land or any interest therein, or of any easement or other interest in airspace, is eligible for inclusion in a project if it was made after May 13, 1946, and is necessary—

(1) To allow the initial development of the airport;

(2) For improvement indicated in the current National Airport Plan;

(3) For ultimate development of the airport, as indicated in the current approved airport layout plan to the extent consistent with the National Airport Plan;

(4) For approach protection meeting the standards of § 77.23 as applied to §§ 77.25 and 77.27 of this chapter;

(5) To allow installing an ALS (as described in § 151.13), in which case the costs of acquiring land needed for it are eligible for 75 percent United States participation if the need is shown in the National Airport Plan, based on the best information available to the FAA for the forecast period;

(6) To allow proper use, operation, or maintenance of the airport as a public facility, including offsite lands needed for locating necessary parts of the utility systems serving the airport;

(7) To allow installing navigational aids by the FAA, if the land is within the airport boundaries; or

(8) To allow relocation of navigational aids.

(b) Appendix A of this part sets forth typical eligible and ineligible items of land acquisition as covered by this section.

(Amdt. 151–7, Eff. 6/8/65); (Amdt. 151–8, Eff. 7/23/65)

clearance of runway clear zone areas is desirable, but, as a minimum, all obstructions as determined by § 77.23 as applied to § 77.27 (b) and (c) of this chapter must be removed. Grading in runway clear zones is eligible only to remove terrain that is an obstruction. The clear zone is not a graded overrun area. Specific site preparation for an airport terminal building is eligible on the same basis as the building itself. The site preparation cost is prorated based on eligible and ineligible building space. Appendix B of this part sets forth typical eligible and ineligible items of site preparation as covered by this section.

(b) For the purposes of this section, eligible drainage work off the airport site includes drainage outfalls, drainage disposal, and interception ditches. If there is damage to adjacent property, its correction is an eligible item for inclusion in the project.

(Amdt. 151–7, Eff. 6/8/65); (Amdt. 151–8, Eff. 7/23/65)

§ 151.77 Runway paving: General rules.

(a) On any airport, paving of the designated instrument landing runway (or dominant runway if there is no designated instrument runway) is eligible for inclusion in a project, within the limits of the current National Airport Plan. Program participation in constructing, reconstructing or resurfacing is limited to a single runway at each airport, unless more than one runway is eligible under a standard in § 151.79 or § 151.80.

(b) The kinds of runway paving that are eligible for inclusion in a project include pavement construction and reconstruction, and include runway grooving to improve skid resistance, and resurfacing to increase the load bearing capacity of the runway or to provide a leveling course to correct major irregularities in the pavement. Runway resealing or refilling joints as an ordinary maintenance matter are not eligible items, except for bituminous resurfacing consisting of at least 100 pounds of plant-mixed material for each square yard, and except for the application of a bituminous surface treatment (two applications of material and cover aggregate as prescribed in FAA Specification P–609) on a item that is not eligible.

(d) In any case in which the need for a seal coat is necessary for a new runway extension or partial reconstruction of a runway, the entire runway may be sealed.

(e) Appendix C to this part sets forth typical eligible and ineligible items of runway paving.

(Amdt. 151–17, Eff. 1/27/67); (Amdt. 151–29, Eff. 2/4/69)

§ 151.79 Runway paving: Second runway; wind conditions.

(a) *All airports.* Paving a second runway on the basis of wind conditions is eligible for inclusion in a project only if the sponsor shows that—

(1) The airport meets the applicable standards of paragraph (b), (c), or (d) of this section;

(2) The operational experience, and the economic factors of air traffic at the location, justify an additional runway for the airport; and

(3) The second runway is oriented with the existing paved runway to achieve the maximum wind coverage, with due consideration to the airport noise factor, topography, soil conditions, and other pertinent factors affecting the economy and efficiency of the runway development.

(b) *Airports serving large and small aircraft.* The airport serves both large and small aircraft and the existing paved runway is subject to a crosswind component of more than 15 miles per hour (13 knots) more than 5 percent of the time.

(c) *Airports serving small aircraft only.* The airport serves small aircraft exclusively, and—

(1) The airport has 10,000, or more, aircraft operations each year; and

(2) The existing paved runway is subject to a crosswind component of more than 12 miles per hour (10.5 knots) more than 5 percent of the time.

(d) *Airports serving aircraft of less than 8,000 pounds only.* The airport serves small aircraft of less than 8,000 pounds maximum certificated take-off weight exclusively and—

(1) The airport has 5,000, or more, aircraft operations each year; and

does not qualify for a second runway under § 151.79 is eligible if the Administrator, upon consideration on a case-to-case basis, is satisfied that—

(a) The volume of traffic justifies an additional paved runway and the layout and orientation of the additional runway will expedite traffic; or

(b) A combination of traffic volume and aircraft noise problems justifies an additional paved runway for that airport.

(Amdt. 151–17, Eff. 1/27/67)

§ 151.81 Taxiway paving.

(a) The construction, alteration, and repair of taxiways needed to expedite the flow of ground traffic between runways and aircraft parking areas available for general public use are eligible items under the program. Taxiways to serve an area or facility that is primarily for the exclusive or near exclusive use of a tenant or operator that does not furnish aircraft servicing to the public are not eligible. In addition, the policies on resealing or refilling joints, as set forth in § 151.77, apply also to taxiway paving.

(b) Appendix D of this part sets forth typical eligible and ineligible items of taxiway paving.

§ 151.83 Aprons.

(a) The construction, alteration, and repair of aprons are eligible program items upon being shown that they are needed as public use facilities. An apron to serve an area that is primarily for the exclusive or near exclusive use of a tenant or operator who does not furnish aircraft servicing to the public is not eligible. In addition, the policies on resealing or refilling joints, as set forth in § 151.77 apply also to apron paving.

(b) In determining public use for the purposes of this section, the current use being made of a hangar governs, unless there is definite information regarding its future use. In the case of an apron area being built for future hangars, it should be shown that early hangar development is assured and that the hangars will be public facilities.

taxiways to prevent erosion from the blast effects of the turbojet:

(a) Runway ends—a stabilized area the width of the runway and extending 100 to 150 feet from the end of the runway.

(b) Holding aprons—a stabilized area up to 50 feet from the edge of the pavement.

(c) Taxiway intersections—a stabilized area 25 feet on each side of the taxiway and extending 300 feet from the intersection.

(d) Taxiway (continuous movement of aircraft)—dense turf 25 feet on each side of the taxiway, or in a geographic area where dense turf cannot be established, stabilization.

§ 151.86 Lighting and electrical work: General.

(a) The installing of lighting facilities and related electrical work, as provided in § 151.87, is eligible for inclusion in a project only if the Administrator determines, for the particular airport involved, that they are needed to ensure—

(1) Its safe and efficient use by aircraft under § 151.13; or

(2) Its continued operation and adequate maintenance, and it has a large enough volume (actual or potential) of night operations.

(b) Before the Administrator makes a grant offer to the sponsor of a project that includes installing lighting facilities and related electrical work under paragraph (a) of this section, the sponsor must—

(1) Provide in the project for removing, relocating, or adequately marking and lighting, each obstruction in the approach and turning zones, as provided in § 151.91(a);

(2) Acknowledge its awareness of the cost of operating and maintaining airport lighting; and

(3) Agree to operate the airport lighting installed—

(i) Throughout each night of the year; or

(ii) According to a satisfactory plan of operation, submitted under paragraph (c) of this section.

(c) The sponsor of a project that includes installing airport lighting and related electrical work, under paragraph (a) of this section, may—

to each sponsor of a project that includes installing airport lighting and related electrical work if that sponsor has not entered into a grant agreement for the project before September 5, 1968.

(e) If it agrees to comply with paragraph (b)(3) of this section, the sponsor of a project that includes installing airport lighting facilities and related electrical work that has entered into a grant agreement for that project before September 5, 1968, may—

(1) Surrender its air navigation certificate authorizing operation of a ''true light'' issued before that date; or

(2) Terminate its application for authority to operate a ''true light'' made before that date.

(Amdt. 151–24, Eff. 9/5/68)

§ 151.87 Lighting and electrical work: Standards.

(a)–(b) [Reserved]

(c) The number of runways that are eligible for lighting is the same as the number eligible for paving under § 151.77, § 151.79, or § 151.80.

(d) The installing of high intensity runway edge lighting is eligible on a designated instrument landing runway and any other runway with approved straight-in approach procedures. A runway that is eligible for lighting, but does not meet the requirements for 75 percent U.S. participation under § 151.43(d), is eligible for 50 percent U.S. participation in the costs of high intensity runway edge lighting (or the allowable percentage in § 151.43(c) for public land States), if the airport is served by a navigational aid that will allow using instrument approach procedures. If a runway is not eligible for 75 or 50 percent Federal participation in high intensity runway edge lighting but is otherwise eligible for runway lighting, the U.S. share of the cost of runway edge lighting is 50 percent of the cost of the lighting installed but not more than 50 percent of the cost of medium intensity lighting.

(e) In-runway lighting (touchdown zone lighting system, and centerline lighting system) is eligible on the designated instrument landing runway.

(f) Taxiways to eligible runways on airports served by transport aircraft are eligible for lighting. On airports serving only general aviation, the lighting of runway lighting is eligible for the installing of an airport beacon, lighted wind indicator, obstruction lights, lighting control equipment, and other components of basic airport lighting, including separate transformer vaults and connection to the nearest available power source.

(i) The interconnection of two or more power sources on an airport property, the providing of second sources of power, and the installing of standby engine generators of reasonable capacity, are eligible under the program.

(j) Economy approach lighting aids are eligible for inclusion in a project at an airport that will not qualify within the next three years for approach lighting aids installed by FAA under the Facilities and Equipment Program if the economy approach lighting aids—

(1) Will correct a visual deficiency on one of the lighted runways of the airport; or

(2) Will permit operations at an airport at lower minimums.

''Economy approach lighting aids'' includes a medium intensity approach lighting system (MALS) that may include a sequence flasher (SF); a runway end identifier lights system (REILS): and an abbreviated visual approach slope indicator (AVASI).

(k) Appendix F of this part sets forth typical eligible and ineligible items of airport lighted covered by § 151.86 and this section.

(Amdt. 151–8, Eff. 7/23/65); (Amdt. 151–17, Eff. 1/27/67); (Amdt. 151–22, Eff. 7/4/68); (Amdt. 151–24, Eff. 9/5/68); (Amdt. 151–35, Eff. 9/26/69)

§ 151.89 Roads.

(a) Federal-aid Airport Program funds may not be used to resolve highway problems. Only those airport entrance roads that are definitely needed and are intended only as a way in and out of the airport are eligible.

(b) The construction, alteration, and repair of airport roads and streets that are entirely within the airport boundaries are eligible under the program, if needed for operating and maintaining the airport.

(4) The entrance road extends only to the nearest public highway, road, or street.

(c) An entrance road may be joined to an existing highway or street with a normal fillet connection. However, acceleration-deceleration strips or grade separations are not eligible.

(d) Offsite road or street relocation needed to allow airport development or to remove an obstruction, and is not for entrance road purposes, is eligible.

(e) Appendix G sets forth typical eligible and ineligible items of road construction covered by this section.

§ 151.91 Removal of obstructions.

(a) The removal or relocation, or both, of obstructions, as defined in Technical Standard Order N18 is eligible under the program in cases where definite arrangements are made to prevent the obstruction from being recreated. In a case where removal is not feasible, the cost of marking or lighting it is eligible. The removal and relocation of structures necessary for essential airport development is eligible. The removal of structures that are not obstructions under § 77.23 of this chapter as applied to § 77.27 of this chapter are eligible when they are located within a runway clear zone.

(b) The removal and relocation of an airport hangar that is an airport hazard (as described in § 151.39(b)) is eligible, if the reerected hangar will be substantially identical to the disassembled one.

(c) Whenever a hangar must be relocated (either for clearance of the site for other airport development or to remove a hazard) and the existing structure is to be relocated with or without disassembly, the cost of the relocation is an eligible item of project costs, including costs incidental to the relocation such as necessary footings and floors. However, if the existing structure is to be demolished and a new hangar is to be built, only the cost of demolishing the existing hangar is an eligible item.

(Amdt. 151–7, Eff. 6/8/65); (Amdt. 151–22, Eff. 7/4/68)

minimum protection for abrasive materials, field maintenance equipment buildings are eligible items in any airport development project for an airport in a location having a mean daily minimum temperature of zero degrees Fahrenheit, or less, for at least 20 days each year for the 5 years preceding the year when Federal aid is requested under § 151.21(a), based on the statistics of the U.S. Department of Commerce Weather Bureau if available, or other evidence satisfactory to the Administrator.

(b) Airport utility construction, installation, and connection are eligible under the Federal-aid Airport Program as follows:

(1) An airport utility serving only eligible areas and facilities is eligible; and

(2) An airport utility serving both eligible and ineligible airport areas and facilities is eligible only to the extent of the additional cost of providing the capacity needed for eligible areas and facilities over and above the capacity necessary for the ineligible areas and facilities.

However, a water system is eligible only to the extent necessary to provide fire protection for aircraft operations, and to provide water for a fire and rescue equipment building.

(c) No part of the constructing, altering, or repairing (including grading, drainage, and other site preparation work) of a facility or area that is to be used as a public parking facility for passenger automobiles is eligible for inclusion in a project.

(d) Landscaping is not eligible for inclusion in a project. However, the establishment of turf on graded areas and special treatment to prevent slope erosion is eligible to the extent of the eligibility of the facilities or areas served, preserved, or protected by the turf or treatment. In the case of turfing or treatment for an area or facility that is partly eligible and partly ineligible, the eligibility of the turfing or treatment is established on a pro rata basis.

(e) The construction of sidewalks is not eligible for inclusion in a project.

(Amdt. 151–8, Eff. 7/23/65); (Amdt. 151–17, Eff. 1/27/67); (Amdt. 151–26 Eff. 1/11/69)

acquiring of additional property interests; or

(2) Its installation for safety at a turbojet-passenger gate will result in less separation being needed for gate positions, thereby reducing the need for apron expansion, and it is more economical to build the fence than to expand the apron.

(c) The eligibility of runway distance markers for inclusion in a project is decided on a case-by-case basis.

(d) The relocation of navigational aids is eligible for inclusion in a project whenever necessitated by development on the airport under a program project and the sponsor is responsible under FAA Order OA 6030.1 (Agency Order 53).

(e) The installation of any of the following landing aids is eligible for inclusion in a project:

(1) Segmented circle.

(2) Wind and landing direction indicators.

(3) Boundary markers.

(f) The initial marking of runway and taxiway systems is eligible for inclusion in a project. The remarking of existing runways or taxiways is eligible if—

(1) Present marking is obsolete under current FAA standards; or

(2) Present marking is obliterated by construction, alteration or repair work included in a FAAP project or by the required routing of construction equipment used therein.

However, apron marking that is not allied with runway and taxiway marking systems, is not eligible.

(g) The following offsite work performed outside of the boundaries of an airport or airport site is eligible for inclusion in a project:

(1) Removal of obstruction as provided in § 151.91.

(2) Outfall drainage ditches, and the correction of any damage resulting from their construction.

(3) Relocating of roads and utilities that are airport hazards as defined in § 151.39(b).

(4) Clearing, grading, and grubbing to allow installing of navigational aids.

eligible for inclusion in the Program. Therefore, it is necessary in many cases that a determination be made whether particular proposed development is maintenance or repair. For the purpose of these determinations, maintenance includes any regular or recurring work necessary to preserve existing airport facilities in good condition, any work involved in cleaning or caring for existing airport facilities, and any incidental or minor repair work on existing airport facilities, such as—

(1) Mowing and fertilizing of turfed areas;

(2) Trimming and replacing of landscaping material;

(3) Cleaning of drainage systems including ditches, pipes, catch basins, and replacing and restoring eroded areas, except when caused by act of God or improper design;

(4) Painting of buildings (inside and outside) and replacement of damaged items normally anticipated;

(5) Repairing and replacing burned out or broken fixtures and cables, unless major reconstruction is needed;

(6) Paving repairs in localized areas, except where the size of the work is such that it constitutes a major repair item or is part of a reconstruction project; and

(7) Refilling joints and resealing surface of pavements.

(b) Repair includes any work not included in paragraph (a) of this section that is necessary to restore existing airport facilities to good condition or preserve them in good condition.

§ 151.99 Modifications of programing standards.

The Director, Airports, Service, or the Regional Director concerned may, on individual projects, when necessary for adaptation to meet local conditions, modify any standard set forth in or incorporated into this subpart, if he determines that the modification will provide an acceptable level of safety, economy, durability, or workmanship.

(Amdt. 151–13, Eff. 10/2/66)

airport, or the further development of an existing airport. Each proposal must relate to a specific airport, either existing or planned, and may not be for general area planning.

(b) Each proposal for the development or further development of an airport must have as its objective either the development of an airport layout plan, under § 151.5(a), or the development of plans designed to lead to a project application, under §§ 151.21(c) and 151.27, or both.

(c) Each proposal must relate to planning and engineering for an airport that—

(1) Is in a location shown on the National Airport Plan; and

(2) Is not served by scheduled air carrier service and located in a large or medium hub, as identified in the current edition of "Airport Activity Statistics of Certificated Route Air Carriers" (published jointly by FAA and the Civil Aeronautics Board), that is available for inspection at any FAA Area or Regional Office, or for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(d) Each proposal must relate to future airport development projects eligible under Subparts B and C.

(Amdt. 151–22, Eff. 7/4/68); (Amdt. 151–24, Eff. 9/5/68)

§ 151.113 Advance planning proposals: Sponsor eligibility.

The sponsor of an advance planning and engineering proposal must be a public agency, as defined in § 151.37(a), and must be legally, financially, and otherwise able to—

the Federal Airport Act and this subpart.

§ 151.115 Advance planning proposals: Cosponsorship and agency.

Any two or more public agencies desiring to jointly participate in an advance planning proposal may cosponsor it. The cosponsorship and agency requirements and procedures set forth in § 151.33, except § 151.33(a)(1), also apply to advance planning proposals. In addition, the sponsor eligibility requirements set forth in § 151.113 must be met by each participating public agency.

§ 151.117 Advance planning proposals: Procedures; application.

(a) Each eligible sponsor desiring to obtain Federal aid for the purpose of advance planning and engineering must submit a completed FAA Form 3731, "Advance Planning Proposal", to the Area Manager.

(b) The airport layout plan, if in existence, must accompany the advance planning proposal. If the advance planning proposal includes preparation of plans and specifications, enough details to identify the items of development to be covered by the plans and specifications must be shown. The proposal must be accompanied by evidentiary material establishing the basis for the estimated costs under the proposal, such as an offer from an engineering firm containing a schedule of services and charges therefor.

(Amdt. 151–11, Eff. 5/19/66)

§ 151.121 Procedures: Offer; sponsor assurances.

Each sponsor must adopt the following covenant implementing the exclusive rights provisions of section 308(a) of the Federal Aviation Act of 1958, that is incorporated by reference into Part I of the Advance Planning Agreement:

The sponsor—

(a) Will not grant or permit any exclusive right forbidden by section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) at the airport, or at any other airport now or hereafter owned or controlled by it;

(b) Agrees that, in furtherance of the policy of the FAA under this covenant, unless authorized by the Administrator, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the airport, or at any other airport now or hereafter owned or controlled by it, to conduct any aeronautical activities, including, but not limited to, charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity;

(c) Agrees that it will terminate any existing exclusive right to engage in the sale of gasoline or oil, or both, granted before July 17, 1962, at such an airport, at the earliest renewal, cancellation, or expiration date applicable to the agreement that established the exclusive right; and

(d) Agrees that it will terminate any other exclusive right to conduct any aeronautical activity now existing at such an airport before the grant of any assistance under the Federal Airport Act.

(Amdt. 151–14, Eff. 10/8/66); (Amdt. 151–18, Eff. 5/5/67); (Amdt. 151–30 Eff. 3/1/69); (Amdt. 151–32, Eff. 6/19/69)

incurred before the advance planning grant agreement is executed.

(b) No grant is made unless the sponsor intends to begin airport development within three years after the date of sponsor's written acceptance of a grant offer. The sponsor's intention must be evidenced by an appropriate written statement in the proposal.

§ 151.125 Allowable advance planning costs.

(a) The United States' share of the allowable costs of an advance planning proposal is stated in the advance planning grant agreement, but is not more than 50 percent of the total cost of the necessary and reasonable planning and engineering services.

(b) The allowable advance planning costs consist of planning and engineering expenses necessarily incurred in effecting the advance planning proposal. Allowable cost items include—

(1) Location surveys, such as preliminary topographic and soil exploration;

(2) Site evaluation;

(3) Preliminary engineering, such as stage construction outlines, cost estimates, and cost/benefit evaluation reports;

(4) Contract drawings and specifications;

(5) Testing; and

(6) Incidental costs incurred to accomplish the proposal, that would not have been incurred otherwise.

(c) To qualify as allowable, the advance planning costs paid or incurred by the sponsor must be—

(1) Reasonably necessary and directly related to the planning or engineering included in the proposal as approved by FAA;

(2) Reasonable in amount; and

(3) Verified by sufficient evidence.

§ 151.127 Accounting and audit.

The requirements of § 151.55 relating to accounting and audit of project costs are also applicable to advance planning proposal costs. However, the requirement of segregating and grouping costs

maximum obligation of the United States stipulated in the advance planning grant agreement upon certification by sponsor that 50 percent or more of the proposed work has been completed. The final payment is made upon the sponsor's request after—

(1) The conditions of the advance planning grant agreement have been met;

(2) Evidence of cost of each item has been submitted; and

(3) Audit of submitted evidence or audit of sponsor's records, if considered desirable by FAA, has been made.

(b) When the advance planning proposal relates to the selection of an airport site, the advance planning grant agreement provides that Federal funds are paid to the sponsor only after the site is selected and the Administrator is satisfied that the site selected for the airport is reasonably consistent with existing plans of public agencies for development of the area in which the site is located, and will contribute to the accomplishment of the purposes of the Federal-aid Airport Program.

§ 151.131 Forms.

The forms used for the purpose of obtaining an advance planning and engineering grant are as follows:

(a) *Advance planning proposal, FAA Form 3731*—(1) *Part I.* This part of the form contains a request for the grant of Federal funds under the Federal Airport Act for the purpose of aiding in the provisions of Part 15 of the Federal Aviation Regulations (14 CFR Part 15), and representations concerning its legal authority to undertake the proposal, the availability of funds for its share of the proposal costs, its intention to initiate construction of a safe, useful and usable airport facility shown on an airport layout plan developed under the proposal, or initiate the construction of the item or items of airport development shown on the plans developed under the proposal and designed to lead to a project application, or both, within three years after the date of acceptance of the offer. It also includes the sponsor's representation as to the method of financing the intended construction, approval of other agencies, defaults, possible disabilities, and a statement concerning acceptance to be executed by the sponsor and certified by its attorney.

(b) *Advance planning agreement, FAA Form 3732*—(1) *Part I.* This part of the form contains an offer by the United States to pay a specified percentage not to exceed 50% of the allowable proposal costs, as described therein, on specific terms relating to the carrying out of the proposal, allowability of costs, payment of the United States' share and sponsor's agreement to comply with the exclusive rights provision of section 308(a) of the Federal Aviation Act of 1958.

(2) *Part II.* This part of the form contains the acceptance of the offer by the sponsor, execution of the acceptance by the sponsor, and the certification by the sponsor's attorney.

(b) Expansion of airport facilities.

(c) Clear zones at ends of eligible runways.

(d) Approach lights (land for ALS eligible for 75 percent participation will be limited to an area 3200′ x 400′ for a Standard ALS and to an area 1700′ x 400′ for a short ALS located symmetrically about the runway centerline extended, beginning at the end of the runway).

Typical Ineligible Items

1. Land required only for:

(a) Industrial and other non-airport purposes.

(Amdt. 151–8, Eff. 7/23/65); (Amdt. 151–17, Eff. 1/27/67)

(d) Storm drainage of site.

2. Erosion control.

3. Grading to remove obstructions.

the Act.

(b) Public parking facilities for passenger automobiles.

(c) Industrial and other non-airport purposes.

fied loadings.

4. Resurfacing runways for specified strength or for smoothness.

(e) Isolated repair.

(Amdt. 151–29, Eff. 2/4/69)

3. Bleed-off taxiways.

4. Bypass taxiways.

5. Run-up pads.

6. Primary taxiway systems providing access to hangar areas and other building areas delineated on approved airport layout plan.

offering aircraft storage and/or service to the public.

3. Lead-ins to individual storage hangars.

(Amdt. 151–8, Eff. 7/23/65)

and service or a combination of any of the three.

4. Aprons serving hangars used for public storage of aircraft or service to the public, or both.

5. Aprons for cargo buildings used for public storage or service to the public, or both.

will not be eligible.

system, centerline lighting system, and exit taxiway lighting system).

3. Taxiway lights.

4. Taxiway guidance signs.

5. Obstruction lights.

6. Apron floodlights.

7. Beacons.

8. Wind and landing direction indicators.

9. Electrical ducts and manholes.

10. Transformer or generator vaults.

1. Electronic navigation aids.

2. Approach lights.

3. Horizon lights.

4. Isolated repair and reconstruction of airport lighting.

5. Lighting of public parking area for passenger automobiles.

6. Street or road lighting.

(Amdt. 151–24, Eff. 9/5/68); (Amdt. 151–35, Eff. 9/26/69)

boundary and not for general public access).

A. Minimum wages. (1) All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act [29 CFR Part 3]), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the contractor at the site of the work in a prominent place where it (they) can be easily seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of subparagraph (4) below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period (29 CFR 5.5(a)(1)(i)).

(2) Any class of laborers or mechanics which is not listed in the wage determination(s) and which is to be employed under the contract, shall be classified or reclassified comformably to the wage determination(s), and a report of the action taken shall be sent by the [insert sponsor's name] to the FAA for approval and transmittal to the Secas an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for determination (29 CFR 5.5(a)(1)(iii)).

(4) If the contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: *Provided, however,* The Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

B. Withholding: FAA from sponsor. Pursuant to the terms of the grant agreement between the United States and [insert sponsor's name], relating to Federal-aid Airport Project No. ———, and Part 151 of the Federal Aviation Regulations (14 CFR Part 151), the FAA may withhold or cause to be withheld from the [insert sponsor's name] so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the contractor or any subcontractor on the work the full amount of wages required by this contract. In the event of failure to pay any laborer or mechanic employed or working on the site of the work all or part of the wages required by this contract, the FAA may, after writ-

Such records will contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv) (see subparagraph (4) of subparagraph (A) above), that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits (29 CFR 5.5(a)(3)(i)).

(2) The contractor will submit weekly a copy of all payrolls to the [insert sponsor's name] for transmission to the FAA, as required by § 151.53(a). The copy shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a ''Weekly Statement of Compliance'' which is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor, under 29 CFR 5.5(a)(1)(iv) (see subparagraph (4) of paragraph (A) above), shall satisfy this requirement. The prime contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The contractor will make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the FAA and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

D. Apprentices and trainees. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with a State, under a program registered with the Bureau of Apprenticeship and Training, United States Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the [insert sponsor's name] written evidence of the registration of his program and apprentices as well as of the appropriate ratios and wage rates, for the area of construction prior to using any apprentices on the contract work (29 CFR 5.5(a)(4)).

E. Compliance with Copeland Regulations. The contractor shall comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference (29 CFR 5.5(a)(5)).

F. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic received compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, as the case may be (29 CFR 5.5(c)(1)).

G. Violations; liability for unpaid wages; liquidated damages. In the event of any violation of paragraph F of this provision, the contractor and any subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of said paragraph F of this

moneys payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph G of this provision (29 CFR 5.5(c)(3)).

(2) In the event of failure or refusal of the contractor or any subcontractor to comply with overtime pay requirements of the Contract Work Hours Standards Act, if the funds withheld by the FAA for the violations are not sufficient to pay fully both the unpaid wages due laborers and mechanics and the liquidated damages due the United States, the available funds shall be used first to compensate

these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made (29 CFR 5.5(a)(6), 5.5(c)(4)).

J. Contract termination; debarment. A breach of paragraphs A through I of this provision may be grounds for termination of the contract. A breach of paragraphs A through E and I may also be grounds for debarment as provided in 29 CFR 5.6 of the regulations of the Secretary of Labor (29 CFR 5.5(a)(8)).

(Amdt. 151–6, Eff. 1/18/65); (Amdt. 151–9, Eff. 11/11/65); (Amdt. 151–38, Eff. 3/26/70)

AC 150/5325–2A.	Airport Surface Areas Gradient Standards.
AC 150/5325–4	Runway Length Requirements for Airport Design.
AC 150/5330–2	Runway/Taxiway Widths and Clearances.
AC 150/5335–1	Airway Taxiways.
AC 150/5340–1A.	Marking of Serviceable Runways and Taxiways.
AC 150/5340–3	Configuration Details of In-Runway Lighting: Touchdown Zone, Runway Centerline, and Taxiway Turnoff Lighting Systems.
AC 150/5340–4A.	Installation Details for Centerline and Touchdown Zone Lighting Systems.
AC 150/5340–5	Segmented Circle Airport Marker System.
AC 150/5340–7	Marking of Deceptive, Closed, and Hazardous Areas on Airports.
AC 150/5340–13.	High Intensity Lighting System.
AC 150/5340–14.	Economy Approach Lighting Aids.
AC 150/5340–15.	Taxiway Lighting System.
AC 150/5345–1A.	Approved Airport Lighting Equipment.
AC 150/5345–2	Specification for L–810 Obstruction Light.
AC 150/5345–3	Specification for L–821 Airport Lighting Panel for Remote Control of Airport Lighting.
AC 150/5345–4	Specification for L–829 Internally Lighted Airport Taxi Guidance Sign.
AC 150/5345–5	Specification for L–847 Circuit Selector Switch, 5000 Volt 20 Ampere.
AC 150/5345–6	Specification for L–809 Airport Light Base and Transformer Housing.
AC 150/5345–7	Specification for L–824 Underground Electrical Cables for Airport Lighting Circuits.
AC 150/5345–10A.	Specification for L–828 Constant Current Regulator with Stepless Brightness Control.
AC 150/5345–11.	Specification for L–812 Static Indoor Type Constant Current Regulator Assembly, 4 KW and 7½ KW, with Brightness Control for Remote Operation.
AC 150/5345–12.	Specification for L–801 Beacon for Small Airports.
AC 150/5345–13.	Specification for L–841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits.
AC 150/5345–14.	Specification for L–827 "A" Frame Hinged Support for 12–Foot Wind Cone.
AC 150/5345–15.	Specification for L–842 Airport Centerline Light.
AC 150/5345–16.	Specification for L–843 Airport In-Runway Touchdown Zone Light.
AC 150/5345–17.	Specification for L–845 Semiflush Inset Prismatic Airport Light.
AC 150/5345–18.	Specification for L–811 Static Indoor Type Constant Current Regulator Assembly, 4 KW; With Brightness Control and Runway Selection for Direct Operation.
AC 150/5345–19.	Specification for L–838 Semiflush Prismatic Airport Light.
AC 150/5345–20.	Specification for L–802 Runway and Strip Light.
AC 150/5345–21.	Specification for L–813 Static Indoor Type Constant Current Regulator Assembly; 4 KW and 7½ KW; for Remote Operation of Taxiway Lights.
AC 150/5345–22.	Specification for L–834 Individual Lamp Series-to-Series Type Insulating Transformer for 5,000 Volt Series Circuit.

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AC 150/5345–26.	Specification for L–823 Plug and Receptacle, Cable Connectors.
AC 150/5345–27.	Specification for L–807 Eight-Foot Illuminated Wind Cone.
AC 150/5345–30.	Specification for L–846 Electrical Wire for Lighting Circuits To Be Installed in Airport Pavements.
AC 150/5345–31.	Specification for L–833 Individual Lamp Series-to-Series Type Insulating Transformer for 600 Volt or 3,000 Volt Series Circuits.
AC 150/5345–32.	Specification for L–837 Large-Size Light Base and Transformer Housing.
AC 150/5345–33.	Specification for L–844 Individual Lamp Series-to-Series Type Insulating Transformer for 5,000 Volt Series Circuit 20/6.6 Amperes 200 Watt.
AC 150/5345–35.	tor Cabinet Assembly for 600 Volt Series Circuits.
AC 150/5345–36.	Specification for L–808 Lighted Wind Tee.
AC 150/5345–37A.	FAA Specification L–850, Light Assembly, Airport Runway, Centerline.
AC 150/5370–3	Materials and Tests Required by AC 150/5370–1, Standard Specifications for Construction of Airports.
AC 150/5310–1	Preparation of Airport Layout Plans.

(b) *Circulars for sale at the price stated.*

AC 150/5370–1	Standard Specifications for Construction of Airports; $2.75.
AC 150/5370–1, CH 1.	Standard Specifications for Construction of Airports; $0.35.

(Amdt. 151–13, Eff. 10/2/66); (Amdt. 151–15, Eff. 11/17/66)

☆ U.S. GOVERNMENT PRINTING OFFICE: 1993—301-707/80025